

Salmon, Thomas

A

COLLECTION

Proceedings and Trials

AGAINST

STATE PRISONERS;

As well where they have had the Benefit of a Legal Trial, as
where they have been cut off by Arbitrary Sentences,

From the *Norman* Conquest to this present Time.

CONTAINING

Upwards of two Hundred Cases and Trials not comprehended in any
Collection yet Published.

To which is added,

So much of the Characters of the Persons accused, and the History of their Times, as
will discover the Motives of the respective Prosecutions, and the Justice of the Admin-
istration in each Reign, as well as the various Interpretations and Alterations of the
Crown-Law during this Period.

Being a Work which gives great Light into many Obscure and Controverted Points in English History.

Compiled by the EDITOR of the Four First Volumes of STATE-TRIALS in Folio.

L O N D O N:

Printed for J. WILCOX, at VIRGIL'S-HEAD, opposite the *New*
Church in the Strand. 1741.

THE PROCEEDINGS OF THE
GENERAL ASSEMBLY OF THE
METHODIST EPISCOPAL CHURCH IN
CONNECTION WITH THE
ANNUAL CONFERENCE

PROCEEDINGS AND
FINALS

AGAINST

STATE PRISONS

As well where they have had the benefit of
where they have been off by

From the New York Conference to the

of two hundred cases and this not only

of the Church of the South and the

the Methodist Episcopal Church in

wholly to the

under the

Printed by J. Wilson at the
Church in the



P R E F A C E.

IN compiling the *State Trials*, I confined my self in a great Measure to such Proceedings as had the Appearance of fair regular Trials ; but observing that many Gentlemen had been put to Death in several Reigns, who were not permitted to make their Defence in a legal Way ; I extracted from our antient and modern Historians, Annals and Records, the several Cases of those illustrious Sufferers, and the Inducements the respective Governments under which they liv'd, had or pretended to have for such extraordinary Prosecutions ; amongst which I found the following Motives to have had no small share.

It is obvious that *William* the Conqueror and some succeeding Princes had very little regard to the Laws either in this or any other Cases ; they acted despotically as Conquerors, apprehending the Legislature as well as executive Power to be solely vested in themselves and consequently that they were restrained by no Laws, but might take away the Lives and Estates of their

The P R E F A C E

their Subjects at Pleasure, whenever they suspected them to be disaffected and dangerous to their respective Government. And if these Princes did sometimes call Assemblies of their Great Men to consult about the Affairs of the Kingdom, or appoint Courts of Justice for the Trial of Offenders, it was in order to give a Sanction to what they were pleased to dictate, or to take off the Odium of such illegal Proceedings from themselves, and throw it upon great Councils and Judges, who seldom had Courage to disobey the Commands of the Prince or his Ministers, how arbitrary or unjust soever their Determinations might be.

When we come down lower, indeed our Princes did not think fit openly and avowedly to take away the Lives of their Subjects by their sole Command, though some of them by Corruption or Artifice effected that under-hand, which their Predecessors had done by open Force and Violence.

There have been many Instances also where Subjects ambitiously aspiring to depose their Sovereigns have become so formidable, as to bid Defiance to the Government, rendering it impracticable to arraign such Delinquents before the ordinary Courts of Justice, and consequently it appear'd necessary to take them off in a more summary and arbitrary manner, without a formal Trial.

And where such Rebels and Usurpers have succeeded in their Attempts on the Throne, it is no Wonder if they have proceeded Arbitrarily afterwards against such of their Fellow-Subjects as have legally opposed them, and taken off the Heads of their Enemies, either without Law, or by straining and perverting those Laws which were originally made for the Subjects Preservation.

From

The P A R T E F R A C T E

From whence it appeared to me that there was a large Field open for any one to engage in, who should take upon them to show the various Inducements and Pretences that have been made use of for proceeding capitally in many Reigns against the Subjects, without Law, and even contrary to the known Laws of the Kingdom, in a multitude of Instances.

Having reduced such Proceedings therefore into a Chronological Order, and disposed them in such a manner as I conceiv'd would be most Instructive and Entertaining; I added to them a great many valuable *Trials* which have been omitted in all former Collections; particularly, *Trials by Battle*, *Trials in the Star-Chamber*, *Trials for High Treason*, *Seditious Libels*, and *Witchcraft*, in the ordinary Courts of Justice; by which the Laws in these Cases will be better understood, and many important Transactions and Occurrences in our *English History* cleared up and explained, which have hitherto been misrepresented or transmitted to us in great Confusion and Uncertainty. Some other *Trials* I have added, which have happened since the Publication of any Collection of *Tryals*, which I hope will be thought very usefull to Posterity.



The former part of the Proceedings in this Undertaking, are chiefly Collected from the following Authors.

- | | | | |
|----|--------------------------------------------------------------------------------------|----|---------------------------------------------------------------------------------------|
| A. | Alford's (Annals) | K. | Kennet. |
| B. | Burnet,
Barnes,
Bacon,
Brady,
Bede (Vener)
Bingham. | L. | Leland. |
| C. | Collier,
Camden,
Clarendon,
Cooper,
Caxton. | M. | Milton,
Mather,
More, (Sir Tho.)
Malmſbury, (Wil. of)
Matth (Weſtminſter) |
| D. | Daniel,
Dugdale,
Du Cefne. | N. | Neale. |
| E. | Eachard. | P. | Paris, (Matth.)
Prynne. |
| F. | Fox,
Fuller,
Fabian,
Froſſart. | R. | Rymers, Fed.
Ruſſworth,
Rapin. |
| G. | Goodwyn,
Grafton. | S. | Stow,
Speed,
Strye.
Stillingfleet,
Spelman.
Script. Decem by Twiſden. |
| H. | Habington,
Howard,
Herbert,
Hollingshead,
Hutchiſon,
Hall,
Howell. | T. | Tyrrel,
Tovey. |
| I. | Inett. | V. | Uſher.
Virgil, (Polydore) |
| | | W. | Wilson,
Wake
Walker. |



PROCEEDINGS AGAINST STATE CRIMINALS.

Proceedings against Earl WALTHEOF, for High Treason, Anno. 1075, 10 WILL. I.

1075.
10 W. I.

E. Waltheof.

The Charge
against him.



WALTHEOF, Earl of Northumberland, Northampton and Huntingdon, was charged with a treasonable Conspiracy, together with Roger Breteuil, Earl of Hereford, Ralph de Walber Earl of Norfolk and Suffolk, Eustace, Earl of Bologn (Normans), and several English Noblemen to raise a Rebellion, unite their Forces with the Danes, and depose King William: Waltheof disclosing the Treason first to Archbishop Lanfranc, and afterwards to the King, who was then in Normandy, 'tis said obtained a Promise of Pardon: however it appears that Earl Waltheof and Roger Earl of Hereford, were made close Prisoners at the King's Return to England, and the following Year 1076, Waltheof was, by the King's Command, beheaded at Winchester.

Imprison'd
and Executed.

Some Account of him

The first time Earl Waltheof is mentioned in our Histories, is in the Year
NUMB. I.

1067, the Year after the Conquest, when the King took him along with him on his return to Normandy, as a Hostage for the Fidelity of his new Subjects in the North of England, where this Earl was very popular.

It appears, that the Earl after his Return from France, proved a Malecontent, and frequently harrassed and cut off the Normans in their Quarters: and when the Danes invaded the Kingdom in the Year 1069, they were joined by Earl Waltheof, and other disaffected English Noblemen; who made themselves Masters of all the Countries about the Humber, besieged and took the Castles of York, and put the whole Garrison to the Sword, consisting of three thousand Men; of whom 'tis said Earl Waltheof killed great Numbers with his own Hand. The King finding his Enemies so formidable, had recourse to Policy, and with a great Sum of Money prevailed on the Danes to return home; which they did not do however, 'till they compelled the King

1075.
10 W. I.

1075.
10 W. I.

to pardon and even reward the *English* Noblemen that had appeared in Arms against him; and particularly Earl *Waltbeof*, on whom he conferred the Earldoms of *Northumberland*, *Northampton* and *Huntington*, and gave him the Princess *Judith* his Niece in Marriage; by which this Prince imagined probably he had fixed this Nobleman in his Interest. But his Majesty being absent in *Normandy*, Anno 1076, in the tenth Year of his Reign, the abovesaid Roger Earl of *Hereford*, Ralph Earl of *Norfolk*, Eustace Earl of *Bologn* and Earl *Waltbeof*, assembled near *New-Market*, with several other *English* and *French* Noblemen, on pretence of solemnizing the Marriage of the Earl of *Norfolk* with the Lady *Emma*, the Daughter of the Earl of *Hereford*; where they resolved over their Cups, 'tis said, to raise an Insurrection and depose the King: but when they grew cool next Morning, most of them repented of what they had done, and Earl *Waltbeof* went and revealed the Conspiracy to the King, and thereby imagined he had merited his Pardon, as has been related already. How he came to be executed afterwards I am to shew in the next Place, as well as History will enable me.

Two Things 'tis said contributed chiefly to the Destruction of the Earl; namely, the Treachery of his Wife, and the great Estate and Places he enjoyed. The Princess it seems did not live well with him, but studied perpetually how she might get rid of this Husband, and take another she liked better; and either she insinuated to the King that the Discovery her Husband had made of the Plot was partial, or that he was still conspiring to depose his Majesty, and would never rest 'till he had effected it; which being confirmed by some Courtiers, who waited for the Posts he enjoyed, or the Estate the Earl was possessed of, the King was induced to order his Execution: and 'tis not improbable, that the King's own Fears went a great way towards this Nobleman's Destruction. He could not but remember

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10 W. I.

his confederating with the *Danes*, and the Hazard his Crown was in, 'till he purchased a Peace of them; and he could not but resent his Ingratitude, in entering into a Conspiracy to dethrone him, after he had given him three of the best Governments in the Kingdom, and married him to his Niece. The ill Usage that Lady pretended she received from her Husband also, might be another Motive to the passing that Sentence on him. And 'tis very reasonable to believe, that the Conspiracy was of an elder Date than the Earl pretended; because we see that the *Danes* soon after the Discovery of the Plot, arrived with a Fleet of two hundred Sail and upwards, to join the *English* Malecontents; the Enterprize therefore must have been concerted some time before: and it is no Wonder, when Earl *Waltbeof* had represented the Conspiracy as no more than a sudden drunken Frolick, that the King should promise him his Pardon: and yet when he understood the *Danes* were arrived upon the Coast, and that the Plot was so well concerted, that his Crown was in the utmost Danger: (No Wonder, I say, when he was fully apprised of this, that he should recall the Promise of a Pardon, and suffer the Earl to be executed; tho' the Princess his Wife, or the Ministry, had used no Stratagem to take him off. But every one is at Liberty, from the Facts thus truly stated, to make what Judgment he pleases of the Case: I shall conclude with that Observation which our Historians generally concur in on this Occasion; namely, that Earl *Waltbeof* was the first, and almost only *English* Nobleman, that the Conqueror caused to be executed in cold Blood, tho' he destroyed great Numbers of them by the Sword, in the Heat of Battel. The Prisoners he took were either condemned to lose their Hands or Feet, or doom'd to perpetual Imprisonment or Slavery. As to Roger Earl of *Hereford*, the principal Conspirator, he was condemned to perpetual Imprisonment, and could not obtain his Liberty 'till the next Reign.

Proceedings against ODO Bishop of Baieux, Earl of Kent, and Viceroy of England, Anno. 1083, 18 WILL. I.

1083.
18 W. I.

Bp. Odo.

The Charge against him.

Condemn'd to perpetual Imprisonment.

His History:

THE Crimes this Bishop was charged with by the King, were chiefly these three. 1. The grievous Oppressions of his Subjects whom he had committed to his Care. 2. His sacrilegiously despoiling and plundering great Numbers of Churches. 3. His aspiring to the Papacy, and transferring the Wealth of the Nation to Rome, in order to purchase St Peter's Chair, and seducing several of the principal Nobility, Knights, Gentlemen and others the King's Subjects, to attend him thither; for which the King commanded him to be imprisoned in the Castle of Rouen in Normandy, where he remained 'till the Death of this Monarch.

Odo was half Brother to the Conqueror, and no Bastard, as the Conqueror was; for his Mother Arlotte was married to Herlewin the Father of Odo, a Man of mean Extraction, even in the Life-time of the Conqueror's Father, and by Herlewin she had Issue this Odo and Robert Earl of Moreton.

The Conqueror first conferr'd the Bishoprick of Baieux in Normandy on his Brother Odo, but observing he was a much better Soldier and Statesman than a Divine, he gave him a considerable Post in his Army when he invaded England, and Odo had his Share in the Victory the Conqueror obtained over King Harold at Hastings. The Conqueror afterwards constituted Odo Earl of Kent, Chief Justiciary and Viceroy of the South Part of England, William Fitz-Osborn having the Government of the North; and upon the Death of Osborn, Odo was made Viceroy of the whole Kingdom. Under these Norman Governours the English were grievously oppressed and harrassed, and especially by Odo, which occasioned an Insurrection in Kent; but he had the good Fortune to suppress it, tho' the Malecontents were joined by foreign Forces from France, under the Command of Eustace Earl of Bologn: The King returning from Normandy, did not only approve and countenance the Oppression of his Viceroy, but continued to pillage the People by insupportable Laws, which oc-

casioned other Rebellions in the West and North; and these being likewise suppressed, our Writers seem to justify the Severities and Oppressions of the Conqueror and his Viceroy afterwards, telling us they were compelled to commit these Outrages by frequent Conspiracies, and Insurrections of the English.

Nor was Odo content with ravaging the Lands of the English, and taking them from the original Proprietors by Violence, but proceeded to seize the Lands of several Norman Lords, and even those of Archbishop Lanfranc the King's Favourite; which occasioned a memorable Law-suit between these two great Normans, in which Odo was cast, and compelled to make Restitution to the Church; but being still continued Viceroy, he procured that Judgment to be reveried by his Interest, and seized the Archbishop's Lands again, till he was compelled by the King to restore them a second time: However his Majesty so far approved the Administration of this illustrious Plunderer, that he still continued him his Viceroy whenever he was absent in Normandy; looking upon him as a proper Instrument possibly to break the Spirit of the English, who would not tamely submit to his Usurpation: Even in the fourteenth Year of this Reign, it appears, that Odo by the Conqueror's express Command, destroyed the North of England with Fire and Sword, and in a manner depopulated that part of England. But Odo having amassed a prodigious Treasure by sixteen Years continual Plunder of a wealthy People, began to entertain ambitious Thoughts, which were by no means pleasing to his Brother the Conqueror. Odo observed that the Popes of Rome had lately attempted to grasp the supreme Power in every Kingdom, as well in Temporals, as Spirituals; and that Pope Gregory VII had the Assurance to require the Conqueror to take an Oath of Allegiance to him as his Vassal for the Kingdom of England; from whence he concluded that the Papal Chair was the readiest way to arrive at universal Empire:

He

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18 W. I.

1013.
18 W. I.

He transmitted vast Sums to *Rome* in order to get himself chosen Pope at the next Election; and while the King his Brother was in *Normandy*, actually made Preparations for his Voyage to *Rome*, taking with him the remainder of his Treasure, and a numerous Train of *English* Noblemen and Gentlemen; but he had so artfully concealed this Project from the Conqueror, that 'tis said he knew nothing of it till *Odo* had assembled a Fleet, and was upon the point of embarking in the *Isle of Wight*, where the King happened to Land on his return from *France*; but 'tis more probable the King had some Intelligence of his Brother's intended Expedition to *Rome*, and came thither from *France* on purpose to defeat his Projects. But however that was, the Conqueror no sooner landed in the *Isle of Wight*, but he commanded the Attendance of his Brother *Odo*, and in an Assembly of Peers and great Officers declared what Views his Brother entertained; particularly, that he was going to *Rome* with the Plunder of the *English* Churches, and the Wealth he had extorted from his oppressed Subjects to purchase the Papacy, and ordered him to be immediately apprehended; which when some Noblemen refused, on account of the Bishop's being an *Ecclesiastick*, the King arrested him himself, telling them he seized his Brother, not as Bishop of *Baieux*, but as Earl of *Kent*, and Viceroy of the Kingdom; which Trust he had abused by Sacrilegiously plundering the *English* Churches, and oppressing the People committed to his Care, and ordered the Bishop to be transported to *Normandy*, and committed to the Castle of *Rouen*, where he remained till the King's Death, as has been observed already: The King also caused all his vast Treasure and Moveables to be confiscated, and converted to his own use; together with all his numerous Castles, Mannors, and Estates. And our Historians enumerate near five hundred Mannors Bishop *Odo* was possessed off in *England*, either by the Grant of his Brother the Conqueror, or by violently dispossessing the *English* or *Norman* Proprietors of them.

Odo being restored to his Liberty on the Death of the Conqueror came over to *England*, and was admitted to take

Possession of the Earldom of *Kent*: But whether he was discontented because some of the Lands he held formerly were given to others, or he was better affected to *Robert*, Duke of *Normandy*, than to *William II.* his Younger Brother, *Odo* confederated with several other *Norman* Lords to depose King *William II.* and advance Duke *Robert* to the Throne, who promised to make a Descent with a great Body of *Normans* as soon as *Odo* and the disaffected Lords should appear in Arms; but not proving so good as his Word, the *Malecontents* were obliged to quit the Field by the King's Forces, and to throw their Troops into the Castles they had fortified, where they proposed to defend themselves till Duke *Robert* arrived with his Army to their Relief. Bishop *Odo* particularly defended his Castle of *Pevensey* in Person, till he was obliged to surrender that Fortrefs by Famine, and promise to deliver up his Castle of *Rockester*; but being carried to *Rockester* by a Detachment of the King's Army, and the Garrison on the Bishop's Command opening their Gates to receive him and the Guard which attended him: The King's Troops were no sooner entred than they were made Prisoners by the Bishop's Soldiers: And now the Bishop imagined he should be able to maintain the Castle of *Rockester*, till the Arrival of Duke *Robert*, in which however he was mistaken; for the King assembling Forces from all parts of the Kingdom, invested the Place, and Duke *Robert's* Transports with his Forces on Board being destroyed by the King's Ships in their Passage, *Odo* and the rest of the *Norman* Noblemen with him were reduced to such extremity, that they could obtain no better Conditions than an Indemnity as to their Lives and Limbs; for they were forced to abjure the Realm, and suffer their Estates to be confiscated.

However Bishop *Odo* on his Arrival in *Normandy*, was made Prime Minister to the Duke; and for ought appears continued in that Post, till the Duke transferred the *Dutchy* of *Normandy* to his Brother, King *William II.* for a Sum of Money, and undertook a Crusade to the *Holy-Land*, in which he was accompanied by his Uncle *Odo* who died at *Palermo*, in his Passage thither. *Anno* 1099.

1083.
18 W. I.

Proceedings against ROBERT DE MOWBRAY, Earl of Northumberland, and other Norman Barons for High Treason. Anno. 1088. 2 WILL. II.

1088.
2 W. II.

Mowbray,
Earl, &c.
charged with
Treason.

His Punish-
ment.

Lacy, his Pu-
nishment.

D'Ewe, his
Punishment.

D'Alveric
his Punish-
ment.

Their His-
tory.

ROBERT de Mowbray Earl of Northumberland, Roger de Lacy, William D'Ewe, and William D'Alveric, were charged with a treasonable Conspiracy to depose the King, and advance Stephen, Earl of Albermarle his Cousin to the Throne. The Earl of Northumberland was taken in actual Rebellion, and committed to Windfor Castle, where he died about thirty Years afterwards.

Roger de Lacy charged with the same Offence, was banished, and his Estate confiscated and given to his Brother.

As to William D'Ewe he was accused of being in this Conspiracy by Godfrey Banyard; and there being no other Witness of it, he challenged the Witness to make good the Charge by single Combat, according to the Custom of those Days; and the Combatants fought accordingly in the Presence of the King and Court at Salisbury: In which Duel, William D'Ewe being vanquished: The King looked upon his Defeat, as a sufficient Evidence of his Guilt, and commanded his Eyes to be put out, and his Testicles cut off.

What the Evidence was against William D'Alveric does not appear, but he was condemned to be whipped, and afterwards hanged; which Sentence was executed upon him, tho' he denied his Guilt with his last Breath, and was generally esteemed innocent.

Robert de Mowbray Earl of Northumberland, was the Son of Roger de Mowbray who came over with the Conqueror, and contributed to that memorable Victory at Hastings: In the second Year of William II. Earl Robert confederated with Odo Bishop of Baieux, and the rest of the Norman Barons, to depose the King, and advance his Brother Robert Duke of Normandy to the Throne; but after the Defeat of Odo he was pardoned and restored to the King's Favour, which he seemed to deserve, by the Victory he soon after obtained over the Scots, when Malcolm King of Scotland, and Prince Edward his Son, were killed in the Field of Battel, with

the greatest Part of their Army: Hector Boëtius the Scottish Historian indeed suggests, that the King was treacherously killed by the Earl, but our own Writers insist, he was killed in fair Fight; and that the Earl not being taken Notice off, or rewarded for this considerable Service in vanquishing the Scottish King, who had in four former Expeditions laid waste the North of England with Fire and Sword, the Earl became a Malecontent, and entered into the abovesaid Conspiracy to dethrone the King: others relate, that these Norman Lords entred into this Conspiracy upon a religious Account; namely, to compel the King to restore Archbishop Anselm, whom he had banished for maintaining the Pope's Supremacy; but however that was, the King was in very great Danger, the Conspirators having formed an Ambuscade in a Wood through which he was to march into the North, and his Majesty had in all probability fallen into the Snare, if Gilbert de Tonbridge, one of the Conspirators, had not deserted his Accomplices, and given the King timely notice of his Danger: the Reason the King spared this Nobleman's Life was, probably the great Service he had lately done by vanquishing the Scottish King, who had been a continual Plague to the North of England for many Years.

As to Roger de Lacy, he was the Son of Robert de Lacy who came over also with the Conqueror, and was one of the principal Officers of his Army: this Nobleman also was in the Rebellion with Bishop Odo to depose King William II. and set Robert Duke of Normandy on the Throne; the King however thought fit to save his Life, and content himself with his Banishment and the Confiscation of his Estate.

William D'Ewe, the third of the Conspirators abovemention'd, was the Son of Robert D'Ewe, Privy Counsellor to the Conqueror: this Nobleman also was in Bishop Odo's Conspiracy to depose the King, but deserted the Duke of Normandy's Cause,

1088.
2 W. II.

1088.
2 W. II.

Cause, on some Promises of Preferment made him by the King, from whom he afterwards received a great Estate in Lands in England; but proving false to the King as he had been to his Brother the Duke, he in some measure merited the cruel Punishment that was inflicted on him.

The fourth of these Conspirators, *William D'Alveric* was the King's Godfather and his near Kinsman; which makes it seem strange that he should pass a more severe and ignominious Sentence upon him than upon any other of the Conspirators, and suffer it to be so rigorously executed.

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2 W. II.

Proceedings against ROBERT DE BELLESM, Earl of Arundel and Shrewsbury, WILLIAM DE WARREN, Earl of Surrey, WILLIAM, Earl of Mortaigne, and other Norman Noblemen, for High Treason. Anno. 1103. 4 Hen. I.

1103.
4 Hen. I.

Robert de Bellesm, &c. charg'd with High Treason.

The occasion of the Conspiracy.

THE Treason *Robert de Bellesm*, and the rest of the Norman Lords were charged with, was their adhering to *Robert Duke of Normandy*, their conspiring to depose the King and advance the said Duke to the Throne; for which they were banished the Realm, and their Estates confiscated.

The Duke being in the *Holy Land* at the Death of *William Rufus* the late King; *Henry* their younger Brother took advantage of his Absence, and mounted the Throne; but governing despotically, without much regard to the Laws and Constitutions of the Kingdom; the Norman Noblemen who had Estates in England, upon the Duke's return to Normandy invited him to take Possession of the English Throne as his undoubted Right; whereupon the Duke embarking his Army in order to make a Descent on the English Coast, King *Henry's* Fleet was so far from opposing it, that they unanimously went over to the Duke, and he landed his Forces at *Portsmouth* without Interruption. King *Henry* finding most of his Nobility ready to desert his Cause, entered into a Treaty with his Brother *Robert*; wherein it was agreed, that *Henry* should remain King for Life, paying the Duke 3000*l.* per. Ann. That the King should govern the State according to the ancient Laws; and the Nobility and others who had adhered to either Party, should be indemnified. Notwithstanding which, the Duke was no sooner

returned to the other side the Water; and the King found himself settled on his Throne; but he began to prosecute the above-said Earls, and the rest of the Noblemen who had adhered to his Brother, which occasioned an Insurrection; but the King was so fortunate to suppress it. The Earls of *Shrewsbury*, *Surrey*, and *Mortaigne* with several other Noblemen were banished the Realm, and their Estates confiscated, as already related, and those of inferior Quality were many of them dismembered having their Hands or Feet cut off.

The Earl of *Surrey* however at the Intercession of the Duke of Normandy, had his Estate and Honours restored him by the King, to whom he remained faithful ever afterwards; and he contributed more to obtain that decisive Victory at *Tinchebray*, where the Duke of Normandy was made Prisoner, than any General of the King's Army: The Consequence of which Victory was the Reduction of that Dutchy, and the rest of the Duke's Territories in France, under the Dominion of the Crown of England.

The King carried the Duke over into England, and confin'd him in *Cardiff-Castle*; from whence endeavouring to make an Escape, the King ordered his Eyes to be put out, and he remained a Prisoner to the Day of his Death, which happened about twenty six Years after his Defeat at *Tinchebray*.

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As to *Robert de Belleſm*, Earl of *Arundel* and *Shrewsbury*, he was the eldeſt Son of *Roger de Montgomery*, allied to the Conqueror, and one of the greateſt Generals in his Army, when he defeated King *Harold* at the Battel of *Haftings* in *Suffex*, Anno, 1066. The firſt mention made of his Son, Earl *Robert*, in Hiſtory is in the Year 1073, when King *William I.* conferred the Honour of *Knighthood* upon him, and granted him many Caſtles and Mannors in *Normandy*, in Conſideration of the Service he had done in repulſing his Enemies and defending his Frontiers on that ſide the Water. Upon the Death of the Conqueror, Earl *Robert*, eſpouſed the Party of *Robert Duke of Normandy* againſt *William Rufus* his younger Brother, and uſed his utmoſt Efforts to advance the Duke to the Crown of *England*; and being in the Caſtle of *Rochefter* with Biſhop *Odo*, when *William Rufus* took that Fortreſs, was baniſhed the Kingdom with the reſt of the Duke's Friends. However King *William* by the large Promiſes he had made to Earl *Robert*, and his Father Earl *Roger*; afterwards prevailed on him to abandon the Duke of *Normandy*, and eſpouſe his Intereſt, which the Duke having Intelligence of, made Earl *Robert* Priſoner; and though he ſet the Earl at Liberty ſometime afterwards, he ſo reſented the Injury, he apprehended was done him, that he invaded the Duke's Territories, and did not ceaſe to ravage and plunder his Country for fifteen Years, without Intermiſſion; for which Services, *William II.* made him General of his Forces, and employed him in erecting Fortreſſes in proper Places both in *England* and in *Normandy*, the Earl being eſteemed the beſt Engineer of his time.

He remain'd faithful to King *William* till he died, but took part with the Duke of *Normandy* againſt *Henry I.* And when the Duke landed at *Pontſmouth*, and was attended to *Wincheſter* by the Earl, and moſt of the Nobility, the Earl and his Party, particularly the Earls of *Surrey* and *Mortaigne*, and his two Brothers, *Roger of Poictou*, and *Arnulph* inſiſted on ſome Limitations to be put on the Prerogative of the Crown, before any Accommodation ſhould be made between King *Henry* and the Duke; and the King it ſeems made very ſolemn Proteſtations to govern the Kingdom according to it's ancient Laws while the Negotiations were depending, but was ſo far from obſerving

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the Conditions when the Danger was over, that he made their putting theſe Conditions upon him, one Article in the Charge againſt theſe Noblemen.

Earl *Robert* hereupon had Recourſe to Arms, and he fortified his Caſtles of *Shrewsbury*, *Bridgnorth*, *Arundel*, and *Tickhill*, and with his Confederates defended himſelf a conſiderable time, againſt all the Power the King could bring againſt them; nor could that politick Prince ever have ſubdued him by pure Force; but corrupting ſome of his Governors and Adherents, ſeveral of the Earl's Fortreſſes were betrayed to him, which obliged the Earl to capitulate; and he could obtain no better Conditions, than to be transported to *Normandy* with his Adherents, where he was to remain in exile, and forfeit all his Caſtles and Eſtate in *England*, which was very great; but being poſſeſſed of thirty four Caſtles in *Normandy*, and preſuming on the meritorious Services he had done the Duke, he aſſumed a greater Authority there, than the Duke was willing to indulge him with; which occaſioned ſuch a Miſunderſtanding between them, that they had both Recourſe to Arms, and the Duke having the Miſfortune to be defeated, was obliged to grant the Earl his own Terms: this Accommodation between the Duke and Earl, very much incenſed King *Henry*, or at leaſt he made this a Pretence for invading *Normandy* with a powerful Army, and engaging the united Forces of the Duke and Earl at *Tinchebray*, obtained that memorable Victory above-mentioned, in which he made the Duke of *Normandy* Priſoner; Earl *Robert* however made his Eſcape out of the Battel, and afterwards reconciled himſelf to the King. But ſome time after endeavouring to reſtore *William*, the Son of *Robert Duke of Normandy*, to that Dutchy, and calling in the French King and the Duke of *Burgundy* to his Aſſiſtance, King *Henry* found Means to ſurprize the Earl, carried him over into *England*, and committed him to *Warbam Caſtle*, where he ended his Days.

No Man has ſo vile a Character tranſmitted to us by our ancient Hiſtorians, as this *Robert Earl of Shrewsbury*; they make him to be a Monster of Cruelty, prophane, ſacrilegious, luſtful, and every thing that is ſhocking and deteſtable to human Nature, which I am very loth to give entire Credit to, upon many Accounts. And firſt we find him meriting his Prince's Favour when he was very young,

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young, by defending his Territories in Normandy, against the Attacks of the French King. We see him afterwards nobly defending the Laws and Liberties of England against the Encroachments of Henry I. which was evidently the principal Cause of his Misfortunes: the Monks who wrote his History also relate, that he quartered his Soldiers on their Houses, and was no Friend to their Superstition and pious Frauds; and consequently we cannot expect a favourable Character of this Nobleman from them: but what renders this Character more suspicious than any thing, was it's

being written in a Reign when the calumniating this Nobleman's Actions seemed the best way of making their court to the Prince upon the Throne. However, it is agreed on all hands, that he was of a noble Stature, brave, politick and eloquent, of uncommon Penetration and indefatigable in Business, and consequently a most formidable Enemy to the Prince he opposed. But whether he and the Noblemen his Adherents, ought to be ranked among our Patriots or State Criminals, is not easy to determine at this Day.

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Proceedings against **BALDWIN DE REDVERS Earl of Devon and Lord of Wight, for High Treason,**
Anno. 1136. 2 STEPHEN.

1136.
2 Stephen.Redvers Earl
of Devon.The Charge
against him.His Punish-
ment.Some Ac-
count of him

THE Treason this Earl was charged with, was his holding the City of Exeter against the King; and having made his Escape from thence, fortifying the Isle of Wight, and resisting the King's Forces there, 'till he was compelled to surrender the Island to his Majesty; for which he was banished, and his Lands confiscated.

This Baldwin de Redvers Earl of Devon, was Grandson of Richard de Redvers, related to the Conqueror both by

Blood and Marriage, and had a great Share in the Victory of *Hastings*, which gave the Conqueror the Crown of England, and was rewarded by him according to his Merit, being made Earl of Devon and Lord of Wight, and several hundred Mannors conferr'd upon him, which his Grandson the abovesaid Baldwin forfeited, by adhering to Maud the Empress, against King Stephen, but he was afterwards recalled from Banishment, and his Lands and Honours restored to him.

1136.
2 Stephen.

Proceedings against **THOMAS A BECKET Archbishop of Canterbury, for maintaining the Pope's Supremacy, and the Independancy of the Church on the Crown.** Anno. 1163. 9 HEN. II.

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9 Hen. II.Becket, the
Charge a-
gainst him.

THE original Charge against Archbishop Becket, which drew the King's Displeasure upon him, was his denying the Right of the Crown to raise Money on the Clergy, his protecting a Priest who was convicted of Murder and degraded, and denying that Clergymen were liable to be tried or punished any where but in the Ecclesiastical Courts, and by the Censures of the Church. The

King being alarmed at these Pretensions, called a Council of the Bishops and Nobility, to meet at *Clarendon*, in the Year 1164, to declare what the Laws were in relation to Ecclesiastical Persons and Affairs in the Reign of Henry I. his Grandfather; in which Council Archbishop Becket was prevailed on, with some Reluctance, to promise to submit to the ancient Laws and Usages of England, and all

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all the Clergy followed his Example. But because there might be some Ambiguity in a general Promise that might occasion future Disputes, the King caused the Laws and Usages under Debate, to be reduced to Writing, and presented to the Council, digested under sixteen Heads. The *first* whereof regarded Adyoufons and Presentations to Churches. The *second*, The Consent of the King to the Donation of Churches. The *third* requires the Appearance of the Clergy in his Secular Courts, and impowers the Lord Chief Justices in some Cases, to take Cognizance of what passed in the Ecclesiastical Courts: and that if a Clergyman was either found guilty, or confessed himself to be so, in the Ecclesiastical Court, he should not be with-held from the Justice of the Civil Power. The *fourth* forbids the Archbishop or Bishops to go out of the Kingdom without the King's Leave; and, if required, to give Security for their good Behaviours during their Absence abroad. The *fifth*, *sixth* and *seventh* describe the Manner of Proceeding in the Ecclesiastical Courts, and forbid the Excommunication of such as hold of the King *in capite*, without the King's Leave. The *eighth* prescribes the Course and Method of Appeals, from the Archdeacon to the Bishop of the Diocese, from the Bishop of the Diocese to the Archbishop of the Province; if not determined by the proper Authority of the Archbishop, then the Appeal to be made to the King, and by Delegates commissioned by him, to be finally determined. The *ninth* directs the Manner of Proceeding when 'tis doubtful, whether the Matter be of Ecclesiastical or Civil Cognizance. The *tenth* relates to the Proceedings in Cases of Contempts. The *eleventh* declares, that Archbishops and Bishops, and all other Persons, who hold of the King *in capite*, hold their Possessions as Barons, and as such shall be accountable to the Justices and Ministers of the King, and attend his Courts, and observe his Laws. The *twelfth* declares the Right of the Crown to the Temporalities of the Archbishops and Bishops during the Vacancy of their Sees, and requires, that the Elections of Archbishops, Bishops and Abbots, should be made in the Chappel of the King, and in his Presence, or with the Advice and Consent of such Persons as the King should, upon that Occasion, call to him to advise with; and that upon their Election, the Bishop elect

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should do his Homage to the King before he was consecrated. The *thirteenth*, *fourteenth* and *fifteenth* direct the Manner of Proceeding in Case any of the Nobility shall disseize the Archbishop, or any other of the Clergy, of the Lay-Fees which they hold under them. The *sixteenth* forbids the Ordaining the Son of a Villain, without the Consent of his Lord.

These having been presented, and well considered in the Council, after some Debate, were recognized by the whole Assembly, and particularly by the Archbishop and Bishops, as the ancient Usages and Laws of England in Affairs Ecclesiastical, and that Recognition attested under their Seals.

These Propositions all agree that the Archbishops and Bishops declared their Assent to, tho' some deny that *Becket* sealed them; however he soon repented what he had done and published his Change, by doing Penance and suspending himself from the Offices of his Function, 'till he was absolved by Pope *Alexander*.

The King hereupon applied to the Pope to bring the Archbishop to Reason, but meeting with no Satisfaction from the Court of *Rome*, he determined to do himself Justice at home; and thereupon summoned another Council to meet at *Northampton* in *October* following, where several Suits were commenced against the Archbishop; one on the Part of *John* the Marshal, wherein the Archbishop was condemned to the King's Mercy for all his Moveables, because he had refused upon a former Citation to appear in the King's Court: besides which, several Suits were commenced against him on Behalf of the King; one for three hundred Pounds, which he had received as Constable of the Castles of *Eye* in *Suffolk*, and *Berkhamstead* in *Hertfordshire*; another for five hundred Pounds, lent at *Tboluse*: he was prosecuted also for the Profits of the Archbishoprick and several Bishopricks and Abbies, which falling void during his Chancellorship, the Revenues thereof, during the Vacancy, had passed through his Hands. These seem to be vexatious Suits, which the Displeasure of the King, and that Prelate's ill Conduct, had drawn upon him: and the Prosecution by the Ministers was answerable, and attended with Heat and Vehemence. The Behaviour of the Archbishop was all of a piece, and such as shewed he had a Spirit exactly turned to the Interest in which he

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was engaged: therefore he treated all that opposed him with great Contempt and Disdain, and after the repeated Assurances which he had given of his Obedience to the Laws, and of his Fidelity to the King, and the repeated Advices and Desires of the Bishops and Nobility to persevere in his Duty, finding no other Means to evade the Force of their Arguments, he took the shortest way and broke through them; for he laid open his Heart, and declared, That the King's Courts had no Authority over him, that he could not submit to him without a Wrong to the Authority of the Papacy; therefore appealed from him to the Pope, and put his Person, his Church and Dignity, under the Protection of the See of Rome. The Bishops and Nobility were just to the King and to the Laws, and were so unanimous in opposing the new Maxims of that Prelate, that he could not but apprehend that the King, by their Advice, would, notwithstanding his Appeal, seize his Person and the Temporalities of his Archbishoprick, and treat him as they thought he had deserved. Therefore after this Debate had lasted about seven Days, the Archbishop thought it much safer to trust to Flight than to his Cause; accordingly he stole away privately in the Night, and after some time got over into France.

The French King, who was willing to embrace every Opportunity to lessen the Glory and embarrass the Affairs of so formidable a Neighbour as King Henry then was, not only received the Archbishop with open Arms, but espoused his Cause. Pope Alexander was no less forward, but much more sincere in his Interest. King Henry considering the Consequence thereof, sent Gilbert Bishop of London, and William Earl of Arundel to the French King, to give him an Account of what had passed, and to desire that he would banish the Archbishop out of his Dominions. But though this was neither better nor worse than a War betwixt the Ecclesiastick and Secular Power, and that of Henry was the common Cause of all the Princes of Europe, yet it had the Success very usual amongst such Ministers of State as choose to make dangerous Precedents, and leave the Succession to shift for itself, under the Disadvantages thereof, rather than omit an Opportunity to add a present seeming Lustre to their own Conduct. For the Ministers of the French King, hoping to find their Account in this Affair, not only refused to banish the Archbishop, but

openly protected him, and brought in the Clergy of France to side with him in recommending his Cause to the Court of Rome. To Pope Alexander King Henry sent Roger Archbishop of York, the Bishops of Winchester and London, Chester, and Exeter, Guido Rufus, Richard Ivelchester, and John of Oxford Clerk; hoping by an Embassy of so many great Men to satisfy Alexander, that it was the Obstinacy and Humour of Becket, and not the Cause of God or the Honour of the Church, that was at the Bottom of this Dispute; and that he desired nothing but what he had a Right to by Law, and what his Ancestors before him had long enjoyed. But Becket had by secret and quicker Dispatches satisfied the Pope, that the Reasons why he could not comply with the Laws of England were, because they forbade Appeals to Rome, unless allowed by the King, and forbade the Excommunication of such Persons as held of the King in capite, and the interdicting of any Parts of his Dominions, and required in some Cases, that the Persons of the Clergy and Causes of Ecclesiastical Nature should be subject to the Civil Courts: that is in short, because the Laws and Customs of England stood in the Way of the new Maxims of Ecclesiastical Liberty, and lay cross to that dangerous and unwarrantable Power which the Bishops of Rome were advancing, under the Umbrage of asserting the Liberties of the Church.

When the Archbishop's Case therefore came under Debate in the Court of Rome, Pope Alexander declared, That if they suffered Becket to fall, all the Bishops would fall with him, so that for the time to come, none will dare to resist the Will of a Prince, and so the State of the whole Catholick Church will sink, and the Authority of the Bishops of Rome will perish; it is therefore necessary, that we restore him to his Archbishoprick again: which was accordingly done, and at the same time, the Pope gave him a publick Assurance of all the Assistance that Church could give him, and provided for his Subsistence in the Abby of Pontigny in Burgundy, and appointed, that that Prelate and his Church should be recommended to God in the Prayers of the great Monasteries of France. As for the Usages of England, they so visibly thwarted the new Maxims of and Intrigues of the Court of Rome, that Pope Alexander declared against them, and fixed his Sentence of Condemnation to almost every Article, and pronounced

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an *Anathema* against all that should favour them. And when *Alexander* was pressed by the Embassadors to send two Cardinals to hear, and finally to determine the Cause in *England*; he answered, with applying that to himself which the Prophet had done to God, *Mine Honour will I not give to another.*

The King receiving advice of these Resolutions of the *Holy See*, issued a Proclamation, by which he forbade all communication with the Pope, and the Archbishop, but declared it Treason to bring any Bull of Excommunication or Interdict from either of them; and commanded that none should go or return from beyond Sea, without Passes from himself or his Governours in his absence: That no Appeal should be made either to the Pope or to the Archbishop, or any others proceeding by their Authority, and that if any one disobey this Order, he, whether of the Clergy or Laity, should be clapped into Prison: And if any Bishop, Priest, Abbot, or Monk, or any other Person, whether of the Clergy or Laity, should think himself obliged to observe any Interdict of the Pope or the Archbishop, he and all his Kindred should immediately be banish'd out of *England*: That all who held any Benefices in *England*, should return thither in three Months, or else their Benefices and Effects should be seized into the hands of the King.

Several other Proclamations of this Nature were issued out during this Controversy: and because *Becket* by the Appointment of the Pope was received into the Abby of *Pontigny* of the order of *Cistercians*, and the King had Reason to suspect that by the means of the Monks of that Order, a Correspondence was maintained with that Prelate, and with the See of *Rome*, contrary to his Edicts, he sent notice to the general Chapter of that Order, that in case *Becket* was not removed from that Abbey he would banish all the Monks of that Order out of *England*. Archbishop *Becket* on the contrary declared the Laws and Constitutions of *Clarendon*, and all others of the like nature void, and excommunicated the Advisers and Defenders of them, and all who abetted or obeyed them; and by Name excommunicated the King's Ministers, sending to Pope *Alexander* to confirm his Censures, and obtain leave to excommunicate the King himself: And at the same time the *French* King invaded the *English*

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Territories in *France* (by the Instigation of the Archbishop as some Writers Conjecture): Whereupon the Bishops and Clergy of the Province of *Canterbury*, wrote to the Pope informing him, that the King had assumed no other Power than what his Ancestors had enjoyed, and blamed the Rashness and ill Conduct of the Archbishop; but the Pope was so little moved by their Representation, that he constituted *Becket* his Legate over *England* (the Archbishoprick of *York* excepted); and confirmed his Excommunication against *Joceline* Bishop of *Salisbury*, one of the King's Ministers; and it was by very large Bribes to the Court of *Rome*, that the King prevailed on them not to excommunicate his own Person, and to send two Legates to *England* to decide the Difference between his Majesty and the Archbishop: These Legates concluded a Peace, it seems, between the Kings of *England* and *France*, but returned without deciding any thing in the Archbishop's Case; whereupon the *French* King offered his Mediation and procured an Interview between the King of *England* and *Becket* in presence of the *French* Nobility, that he might understand the State of the Controversy; at which Interview King *Henry* offered to receive the Archbishop into favour, provided that he would pay to him the same Obedience which the greatest of the preceding Archbishops had paid to the least of the preceding Kings. The Archbishop answered truly, That the Authority of the Church had grown up by degrees; and that the Rights of the Church were not now, what they formerly had been; and that he was not to follow the Example of such of his Predecessors as had been faint and yielding in their Places; but he was obliged to defend the power of which the Church was now possessed.

This mighty Condescension of the King gave great Reputation both to himself and to his Cause; whilst on the other hand the Haughtiness of the Archbishop lessened him in the Opinion of the *French* King, and all the great Assembly who were Witnesses to it; and thus broke up the Conference to the disadvantage of that Prelate.

The Court of *Rome* however let the King of *England* know that if he did not come to an Agreement with the Archbishop, the Pope would proceed to a Sentence of Excommunication and Deposition against him; as they had lately done against the Emperor; and *Becket* sent the King word at the same time that he would

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would put the Kingdom under an Interdict, if he did not make his Peace with him in fifteen Days; at which the King appears to have been so terrified, that after six Years Exile, he yielded that the Archbishop and all his Friends should return to *England*, and peaceably enjoy their Estates, and this without so much as a Promise on the part of the Archbishop, to observe the Laws of *England*.

Becket having obtained this Victory over his Prince was exceedingly elated, and proceeded to excommunicate most of the King's Ministers that had remained faithful to him, and particularly *Roger*, Archbishop of *York*, who had crowned Prince *Henry*, the King's Son, and the Bishops of *London* and *Durham*, and all others that had assisted at that Solemnity: The crowning of the King belonging of Right to the Archbishop of *Canterbury*, as he pretended.

The excommunicated Bishops hereupon went over to the King, who was then in *Normandy*, and complaining that *Becket* was become so imperious, that they were not able to abide the Kingdom; the King said in a Passion he maintained a Company of cowardly and slothful Men, of which not one would vindicate him from the many Injuries which he sustained; or as others report his Words, that among all those he maintained, or had obliged by his Favours, he had none that would vindicate him from one Priest, that troubled him and his Kingdom, and sought to depose and to disinherit him: The King's Domesticks thinking themselves reproached by this Reflection, were officious beyond their Duty, and beyond what the King intended, and presently laying hold of these hasty Expressions; four of them, viz. *Reginald*, *Fitz-Urse*, *William de Traci*, *Richard Brito*, and *Hugh de Moreville*, resolved upon the Death of the Archbishop, and hasting away to *England*, they arrived at *Canterbury*, and finding the Archbishop in the Cathedral, standing near the high Alter, while the Monks performed divine Service; they first reproached him with his Pride and Ingratitude to his Sovereign, and called him Traytor; to which it is said he returned a resolute and scornful Answer, whereupon they fell upon him, and having given him several Wounds with their Swords, at length beat out his Brains; with which and his Blood the very Altar was stain'd: In his dying Moments 'tis said he committed the Church's

Cause to God to whom and the Saints he recommended his own Soul. He was not at all dismayed or confounded it is said, when he saw them approach him in Armour, as determined to sacrifice him.

The King being sensible of the ill Use that would be made of this Fact, employed Embassadors every where to declare the Innocence of his Intentions, and particularly to the Court of *Rome*; but that Court would not admit his Embassadors, or hear his Apologies, till the King had softened them by rich Presents, and promised to abide the Award of the Pope's Legates, whom he met the Year following in *Normandy*, and before them, made Oath, that he was no way consenting to the Fact; and declared his Sorrow for having in his Anger given Occasion, by rash Words, for others to do the Deed, and engaged to perform enjoined Penances. The Conditions of his Absolution were, That at his own Charge he should maintain two hundred Soldiers a whole Year, for the Defence of the *Holy-Land*: That he should suffer Appeals to be made freely: That he should revoke all Customs introduced to the Prejudice of the Church's Liberty: That he should restore and make up the Possession of the Church of *Canterbury*: That he should freely receive all such as were in Banishment for *Becket's* Cause; and besides these, the Legates enjoined him some other secretly.

The King afterwards going over to *England*, when he came within three Miles of *Canterbury*, went barefoot to that City, and entering the Chapter-house at his own request, it is said, received four-score Lashes from the Monks on his bare Back, which is supposed to be part of the secret Penance enjoined him.

Thus says my Author, *Dr Inet*, this unhappy Prelate's Death, drew Destruction after it; the Church and Crown suffered more by it, than by all the Attempts in his Life time: The Papal Usurpation presently grew up to it's full Compliment and Perfection; for having before gained from the Crown the Patronage of Bishopricks by forcing the right of Investitures from the Kings of *England*, and broken all the Authority of Provincial and Diocesan Bishops by settling the *Legantine* Power, and by assuming an Authority to exempt the Religious from their Jurisdiction; now by the Article of Appeals gained a Power to call every thing to *Rome*, and by the Grant of the King to abolish the Laws,

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Laws, which they called prejudicial to the Church, removed every difficulty which stood in the way of their new Maxims and Pretensions to the Ecclesiastical Liberty. There remained little more but to possess themselves of the Crown; and this they in a manner effected in the succeeding Reign of King *John*.

Becket's Family.

The Father of this Prelate who raised such Disturbances in the Reign of *Hen. II.* was a Citizen of *London*; whose House on account of the pretended Sanctity and Martyrdom of *Thomas* his Son, who inherited it, was afterwards converted into a Chappel situated on the same Ground in *Cheapside*, where *Mercers* Chappel stands at present: *Thomas* was bred a *Civilian*, and being a Man of good natural Parts, improved by Education, became very eminent in that Profession, and taking Orders, was made Archdeacon of *Canterbury* by Archbishop *Theobald*: the same Prelate introduced him to the King, recommending him as a fit Person to be the Prince's Tutor; which Office he discharged so much to the King's Satisfaction, that he soon made him high Chancellor of *England*, and upon the Death of *Theobald*, Archbishop of *Canter-*

bury, he obliged the Chapter to elect him into that See, very much against their Inclinations; for no Minister ever acted more arbitrarily, or lived in greater Pomp and Splendour than *Becket* did while he was Chancellor, which made him dreaded by the Monks. It is reported of him that while he attended the King in the *French* Wars, he maintained no less than seven hundred Horse, and twelve thousand Foot; and that he was as eminent for his Skill in Military Affairs, as for his Oratory at the Bar: that he appeared alternately in a Gown, and in Armour; and particularly, that once he tilted with a *French* Knight, and dismounted him: however upon his Consecration, he became in appearance quite another Man; he seemed to disrelish the Pomp and Splendour of a Court; imitated the most rigid Monks both in his Habit and Diet; resigned his Office of high Chancellor; and soon gave the King his Benefactor to understand he might expect no further Service from him, or rather that since he had placed him at the Head of the Church, he would acknowledge no Superiour in *England*.

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Proceedings against FAIR ROSAMUND. Anno. 1177.
23 HEN. II.

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23 H. II.

Fair Rosamund.

AMONG those that have been illegally put to Death, we may instance in *Fair Rosamund*, the Daughter of *Walter Lord Clifford*, and the celebrated Mistress of *Henry II.* whom most of our Historians agree fell a Victim to the injured Queen *Eleanor*; nor did this satisfy her Revenge, she incited his Sons and the *French* King to make War upon him, insomuch that this unhappy Amour endangered the loss of his Crown, as well as rendered his Wife and Children his Enemies; and how detested the Royal Concubine was in the next Reign, appears from the following Passage in honest *John Stow*, *Viz.*

Hugh, Bishop of *Lincoln*, came to the Abbey of *Nunns* called *Godstow*, between *Oxford* and *Woodstock*; and when he had

entered the Church to pray, he saw a Tomb in the middle of the Choir covered with a Pall of Silk, and set about with Lights of Wax; and demanding whose Tomb it was, he was answered, that it was the Tomb of *Rosamund* that was sometime Mistress to *Henry II.* of that Name, King of *England*; who for the Love of her, had done much good to that Church: Then quoth the Bishop take out of this Place the Harlot, and bury her without the Church, lest the Christian Religion should grow into Contempt; and to the end, that through Example of her, other Women being made afraid, may beware and keep themselves from unlawful and adulterous Company with Men.

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E CADWALLER

Proceedings against CADWALLER Prince of Wales.

Anno 1179. 25 Hen. II.

1179.
25 H. II.Cadwallar,
Prince of
Wales.

Affassinated.

CADWALLER Prince of Wales, being summoned to appear at the Court of England, to answer some Misdemeanors he was charged with; came up to London, and having made his Innocence appear, was honourably acquitted; but returning home with the King's safe Con-

duct, he was set upon and murdered: of which the King and his Ministers were violently suspected to be the Authors, having been disappointed in taking him off under a Colour of Law: nor was it ever discovered who was the occasion of the Outrage, if the Court was not.

1179.
25 H. II.

Proceedings against three Persons for Robbery, firing of Houses, and a notorious Riot, in which several hundred Jews were Massacred. Anno 1189. 1 Ric. I.

1189.
1 R. I.Rioters
Massacre
the Jews in
London.

Notwithstanding the Rioters appear to have been engaged in an Insurrection in London, and to have opposed the Chief Justice sent by the King to suppress the Tumult, and to have murdered great Numbers of Jews. Two of them were indicted only for Robbing and Plundering the House of a Christian, under Pretence he was a Jew; and the other for Firing the House of a certain Jew, which communicated it's Flames to another that belonged to a Christian; from whence a Man would be enclined to conjecture that it was not a Capital Offence in those times to rob or murder a Jew; and what confirms this Opinion is the suffering many hundred Offenders to go unpunished the same Year, who were guilty of Massacring and Robbing the Jews in several other great Towns of the Kingdom; of which most inhuman Barbarities Dr Tovey has collected the following Account.

The occasion of this
Massacre.

This Gentleman observes, that King Henry II. having concerted with the French King an Expedition to the Holy Land, and held a Parliament at Northampton to raise Money for it, almost half the Burthen of the War was thrown upon the Jews. The Christians being taxed at seventy thousand Pounds, and the Jews at three score thousand Pounds; but happily for them, says this Writer; there

arose a Misunderstanding between the two Kings, and the War was not prosecuted, but King Henry dying soon after, the Money (as he apprehends) was never raised: wherefore the Jews began to flatter themselves they should be no more harassed in that cruel manner they were in this Prince's Reign; and desiring upon the Accession of King Richard, to secure his Favour and Protection they resorted to London from all parts of the Kingdom, that they might be present at his Coronation, and make him Presents suitable to the Solemnity. But an Opinion prevailing at that time at Court, as well as among the common People, that the Jews were great Proficients in the black Art, and might bewitch the King if they were suffered to attend his Coronation, Orders issued to prohibit their coming near the Palace of Westminster, under severe Penalties. Several Jews however having come a great way to see the glorious Procession, and persuading themselves that being Strangers in Town, they might pass undiscovered, ventured to go to Westminster, notwithstanding the Proclamations, but being some way discovered by the Officers of the Abbey, they were assaulted and beaten, and many of them dragged half dead out of the Church: the Rumour of which quickly spreading itself into the City, the Populace believing they should

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1 R. I.

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do the King a Pleasure, immediately broke open the *Jews Houses*, and murdered every one they could meet with; not confining their Rage to their Persons, but destroying likewise their Habitations with Fire.

Happy were they who could find a true Friend to shelter them; all kinds of Cruelty were exercised against them, insomuch that the soberest part of the Citizens, who had in vain endeavoured to quiet matters by themselves, sent Messengers to *Westminster* desiring some Assistance from the King; for fear the Tumult should grow so outrageous as to endanger the whole City.

Upon hearing such horrid News, which could not but in some measure interrupt the Triumphs of the Day, the King forthwith dispatched *Ralph Glanvil* his Chief Justice with several of the prime Nobility to suppress the Riot, and take an account of the Authors of it. But as they went unaccompanied with great Force, the Rioters, conscious of their superior Strength, and flushed with Spoils, refused either to hearken to their Reasons or reverence their Persons; and therefore though they began the Tumult out of Love and Duty (as they pretended) to the King, they continued their Extravagance till the next Morning, neither the Noblemen or Chief Justice daring so much as to remain amongst them.

The King was certainly very much grieved at these things, taking it as a very ill Omen, that his Reign should begin with so much Civil Bloodshed, and his first Command meet with no readier Obedience: whereupon, being the next Day more at leisure, and having concerted better Measures (though the People had dispersed themselves as being tired, and perhaps satisfied with their Booty) he made such effectual Inquiry after the Ringleaders of the Tumult, that several of them were apprehended, and brought to publick Justice; three of which were hanged; two for plundering a *Christian*, under pretence that he was a *Jew*, and one for burning a *Jew's House*, which fired a *Christians* that was next it.

But though these Outrages against the *Jews* were thus happily suppressed in and about *London*; the report of what great Riches were got by those that assaulted them, so inflamed the generality of the baser sort in other Places, that without the interposing Providence of God they had been destroyed throughout the whole Nation. For though they had approved

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themselves good Subjects to the King by supplying him very largely towards the holy Expedition, which he undertook this Year (and were thereupon declared by Proclamation to be under his especial Protection); they were attacked in so many Places at once, and in so short a space of time after their late Calamities; that their utter Ruin seemed to be determined and inevitable.

Brompton tells us that the Citizens of *Norwich* were the first that followed the bad Example of the *Londoners*, and were soon imitated by those of *Stamford*, and *St. Edmundsbury*. It was upon the Seventh of *March*, that the Massacre began at *Stamford*: not full six Months after the like Tragedy had been acted at *London*.

The chief occasion of it was a publick Fair which being held there at that time had drawn together great numbers of People, and amongst them whole Troops of *roving Saints* who were preparing to go along with the King to the *Holy Land*. These zealous Men disdaining that the Enemies of *Christ* should abound in Wealth, while they who were his great Friends were obliged to strip their Wives and Children of common Necessaries to supply the charge of their Voyage; persuading themselves that God would be highly honoured if they should first cut all their Throats; and then seize upon their Money: so ready are Men to believe what makes for their worldly Advantage? Accordingly they flew upon them with great Vigour and Resolution, and finding very little Resistance from an oppressed and spiritless Enemy, quickly made themselves Masters both of their Persons and Fortunes; the former of which they treated with all kinds of Barbarity: some few of them indeed were so fortunate as to get Shelter in the Castle; whither as they fled without their Riches, the Source of all their Misery, they were not earnestly pursued. And as these devout Pilgrims pretended to do all this for the Advancement of *God's Glory*, to shew they were in earnest, they took Shipping as fast as they could, and fled away for *Jerusalem*, not so much as one of them being detained by the Magistrates, or any further Enquiry made by the King into such a sanctified piece of Villany.

Lincoln was the next Place possessed by the Spirit of Inhumanity; but as by this time the *Jews* were every where alarmed and upon their Guard, they retired as soon as possible into the King's Fortress (which was connived at by the Governor) and

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and escaped most of them here with very little Damage.

Our Historians make particular mention of several other Places, which continued the like Disorders: and all agree that the chief Tormentors of them were the Soldiers and Pilgrims that were going to the Holy War; which in those Days of Ignorance was looked upon as a sort of Dispensation for the most immoral Actions. One instance more of this kind we meet with in that impartial Author *Walter Hemmingford*, who relates, that in April this same Year at *York*, *Benedict*, the Jew who had been forced to receive Baptism while the Massacre was carrying on at *London*, died there of his Wounds the next Day; but that one *Jocenus* who was his Friend, and had set out with him from *York*, had the good Fortune (if it may be so called) to return thither safely; where giving an Account how Matters had passed at *London* (instead of exciting Pity and Compassion in his Hearers) he stirred up many of them to follow the Example: who accordingly setting Fire to several parts of the Town, that the Citizens taken up with extinguishing it might give them no Interruption, began their Assault upon the House of the aforesaid *Benedict*, wherein was his Wife and Children with several other Relations, and the greatest part of their Merchandise; for the House being large and of some strength, they used to lodge there for greater Security. This they quickly got Possession of, and having murdered every one they found within it, burnt it entirely to the Ground: which barbarous Action giving an Alarm to the rest of the *Jews*, who dispersedly inhabited several parts of the City, (and particularly to *Jocenus* a Man of mighty Wealth) they most of them under his Conduct addressed themselves to the Governor of the Castle, and prevailed with him to give them shelter both for their Persons and Effects; which he had no sooner done, than the Rioters flying to the House of *Jocenus*, wreaked their Vengeance upon it in the same manner they had done upon that of his Friend *Benedict*, and seizing upon those unhappy Wretches who were not so provident as to get into the Castle with their Fellows, put them all to the Sword, without distinction either of Age or Sex, except such as complied immediately with their Offers and were Baptized.

And by that means the Boylings of the Multitude in some measure subsiding, those

in the Castle, began to think the Storm over, and that it would be succeeded by a perfect Calm. But while they continued thus in their Strong hold expecting certain proofs of what they only wished for, the Governor chancing one Day to go forth, some crafty Person amongst their Enemies pretending great Friendship, insinuated to them that his Business was to conclude a Peace with the Rioters about delivering them up, on condition that he was to have the largest share of the Booty.

What was to be done in this Case? Fear notoriously cuts off all Succours of Reason; they were afraid the Governor might possibly betray them, they therefore believed he certainly would do it: accordingly upon his return they refused him entrance. The Sheriff of the County happened to be in the City at that time about the King's Affairs, and a great number of Soldiers attended him. The Governor complained to him of the *Jews* Treachery: the Ring-leaders of the Disorder joined with him in the Complaint; they said it would highly reflect upon the King's Authority, if the *Jews* were suffered to continue Masters of the Castle, adding several other Matters to enflame him against them. The Sheriff therefore gave them immediate Orders to attack the Castle and rescue it: that was what they wanted; under Protection of his Command, they joined the Soldiers and began a most furious Assault: yet before they had done much Mischief, the Sheriff perceiving that their Intentions were only to get the *Jews* into their Power, repented of his Order, and revoked it in as publick a manner as he had before given it. But alas! it was now too late; the Rabble was too much heated to be restrained by Words; all Exhortations were fruitless; they continued the Attack on every side, and even desired the better sort of Citizens to give them there Assistance, which they prudently refusing, the Mob applied themselves to the City Clergy, and found them not so backward to encourage them.

In particular, a certain Canon Regular of the *Præmonstratensian* Order was so zealous in the Cause, that he would often stand by them in his Surplice, and proclaim with a loud Voice, *Destroy the Enemies of Christ; Destroy the Enemies of Christ*: which did not a little increase their Fury. And as the Siege continued several Days (believing Good Men that he was engaged in the Cause of God and Religion) 'tis reported of him, that before

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before he went out in the Morning to assist in battering the Walls, he would eat a CONSECRATED HOST.

But as he was one Day very eager at his Work, and approached too near to some Parts that were well defended, he had the Misfortune to be crushed to Death by a large Stone that was tumbled down from the Battlements.

Yet the People nothing dismayed, even with the Loss of so considerable a Leader, continued their Attack so successfully, that the *Jews* believing they should not be able to hold out much longer, called a Council among themselves, to consider what was best to be done in case they were driven to Extremities.

When they were assembled, their Senior Rabbi who was a Foreigner, (and had been sent for over to instruct them in the Law, on account of his great Learning and Experience) rose up and said, 'MEN OF ISRAEL: The God of our Fathers, to whom none can say, *What dost thou?* commands us at this time to dye for his Law; and behold! Death is even before our Eyes, and there is nothing left us to consider, but how to undergo it in the most reputable and easy Manner. If we fall into the Hands of our Enemies (which I think there is no Possibility of escaping) our Deaths will not only be cruel but ignominious. They will not only torment us, but despitefully use us. My Advice therefore is, that we voluntarily surrender those Lives to our Creator, which he seems to call for, and not wait for any other Executioners than ourselves. The Fact is both rational and lawful, nor do we want Examples from amongst our illustrious Ancestors to prove it so: They have frequently proceeded in the like Manner upon the same Occasions.'

Having thus spoken, the old Man sat down and wept.

The Assembly was divided: Some affirming that he had spoken wisely, others that it was a *hard Saying*.

To which the Rabbi standing up a second time replied; 'Seeing Brethren that we are not all of one Mind, let those who do not approve of my Advice, depart from this Assembly.' And accordingly they departed. But the greater Numbers continued steadfast with him. And as soon as they perceived themselves alone, (their Despair increasing) they first burnt every thing belonging to them that was consumable by Fire, and buried the Remainder in the Earth (to prevent it's

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falling into the Possession of their Enemies) then setting Fire to several Places of the Castle at once, they took each Man a sharp Knife, and first cut the Throats of their Wives and Children, then their own. The Persons who remained last alive were, this rash Councillor, and the aforementioned *Jocenus*, occasioned by nothing but a strong desire of seeing every thing performed according to their Directions; for as soon as that was over, the Rabbi out of Respect to *Jocenus* (who was a Person of Distinction) first slew him, and then himself.

To encrease the Horror of the Fact, this dismal Tragedy was acted in the Night-time: so that when the Assailants returned next Morning, they found the Castle all in Flames, and only a few miserable Wretches upon the Battlements, who pretended to no Resistance; for acquainting them, (as well as Sighs and Tears would permit) with the lamentable Fate of their Brethren, they offered to surrender themselves with their remaining Treasure, and also to become Christians, provided they might have Assurance of Life.

But no sooner had these unhappy Wretches delivered up the Gates (upon having their Conditions agreed and sworn to), than the Rioters poured in upon them like a Torrent, and destroyed them utterly. Which notwithstanding did not put an End to the Tumult. For (whatsoever Pretences they made to Religion) as the main Cause of their acting was the Sin of *Coveting their Neighbours Goods*, they flew streightway to the Cathedral Church, and would not lay down their Arms, 'till the Keeper of it, who had likewise the Custody of all the Bonds and Obligations which had been given by any *Christian* Man to the *Jews*, had deliver'd them into their Possession; which as soon as they had bundled up and cast into a Fire made for that Purpose, they declared themselves satisfied, and the City was restored to it's former Tranquillity.

But as soon as these Tidings reached the King's Ears, who had so lately taken the *Jews* into his Protection (being greatly incensed, not only at such a grievous Contempt of his Royal Authority, but also at the great Damage he had sustained in his Exchequer, by the burning of so many Evidences of Money due to the *Jews*, which of Right belonged to him after they were dead) he commanded *Geoffrey Rydel*, Bishop of *Ely*, and at that time Chancellor of *England*, to repair forthwith

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forthwith to York, and inflict due Punishment upon the Authors of the Sedition.

Accordingly, taking sufficient Forces along with him, he soon arrived there; and understanding that every thing had been done by Command of the Sheriff and Governor of the Castle (however they might pretend to the contrary) he put them both from their Offices, and took large Recognizances from the chief Citizens, for their appearing before the King in his Courts of Justice. But the Persons who were actually concerned in the Riot, hearing there was a Proclamation out against them, fled so suddenly away to Scotland, that not one of them was taken and executed for so infamous a Massacre; wherein, as all Authors agree, no less than five hundred Jews were slain. Some say fifteen hundred.

The only Person that appears upon Record to have been punished for this Riot, was one *Richard Malebisse*, a Man of some distinction, who gave twenty Marks to have his Land again till the King's Return; which had been taken into the King's Hands for the slaying of the Jews at York, and that he and his two Esquires, *Walter de Carton* and *Richard de Kokeny*, might have the King's Peace till the same Return.

RICARDUS MALEBISSE r. c. de xx Marcis pro rehabenda Terra sua usque ad adventum Domini Regis; que sustenta fuit in manu Regis propter occisionem Judeorum Eborac. Et ut WALTERUS de CARTON & RICARDUS de KUKENIA, Armigeri ejus habeant Pacem Regis usque ad adventum ejus. Mag. Rot. 4. R. I. Rot. 4. b. Everwich.

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Proceedings against WILLIAM FITZ-OSBERT or WILLIAM LONG-BEARD, and several other Citizens of London, for a Riot, Murder, &c. Anno. 1196. 8 RICHARD I.

1196.

8 R. I.

Long-Beard.

THE Case was this: *William Fitz-Osbert*, usually called *William Long-beard*, from wearing his Beard long, had procured himself a mighty Reputation among the common People, by frequently appearing an Advocate for the Poor against the Rich before the Magistrates of the City: he had a great flow of natural Eloquence; by means of which he captivated the People, and procured Juries to give what Verdicts he pleased, and executed whatever he commanded; which struck such a Terror into the more wealthy Citizens, that they never thought themselves secure, and were forced to keep Guard Night and Day about their Houses, to protect them against his Insults: It is said he prosecuted several Citizens of Figure, and among them his own Brother for high Treason, and had very near caused them to be put to Death: And there arising a Dispute among the Citizens about a certain Tax, which this Captain of the Mob alleged was unequally laid, the Rich being favoured, and the Burthen cast upon the Poor, he raised such a Tumult by these Suggestions, that several

were killed in St Paul's Cathedral: whereupon the Archbishop of Canterbury, who was then the King's Justiciary, commanded, that this *William* their Leader should be taken into Custody and brought before him; but when the King's Officers went about to seize him, he and his Accomplices fled to the Church of St Mary le Bow in Cheapside, where getting up into the Steeple, and having some Provision with them, they fortified it like a Castle; so that not being able to get them out any other way, by the Archbishop's Command a Fire was made under them to smother them out, but it took hold of the Church and consumed most Part of it. *Radhulphus de Diceto* relates, That this *William* set Fire on it himself (which seems not so likely); but however, it is certain that he and his Followers being smothered or rather burnt out, were forced to surrender themselves; and *William with the Beard* being there taken, and eight others of his Companions, they were carried to the Tower of London, and there sentenced to be hanged; and being drawn by the Feet as far as the *Elms* near Tyburn,

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Tyburn, they were executed accordingly, and hung up in Chains; and so this Sedition was appeased: *William's* Carcase being sometime after stolen away and buried, his Followers pretended that divers Miracles were wrought at his Grave.

Herenpon Guards were set at the Place, and those that came thither to pray being well beaten for their pains, People saw through the Cheat, and quickly left off their Devotions to this pretended Saint.

1196.
8 R. I.

Proceedings against **BERTRAM DE GURDON.**
Anno. 1199. 1 JOHN.

1199.
1 John.

Gurdon.

BERTRAM de GURDON was fled alive and hanged, by an arbitrary Sentence after a Pardon granted him, of which our Historians give the following Account.

Widamore Viscount of *Limoges* having found a great Treasure in his own Royalty, consisting among other things, of the Images of an Emperor with his Wife and Children all in pure Gold, sent Part of it to King *Richard*, but he refused it, saying Claim to the whole. *Widamore* denied it; and so the King laid Siege to the Castle, where he imagined the Treasure was hid. They in the Castle being unable to defend themselves, offered to surrender the same, upon Condition that their Lives, Arms and Members should be secured; which the King would not yield to, but swore that he would storm the Castle and hang them all: whereupon they desperately resolved to stand to their Defence. King *Richard* with *Merchard* alias *Markadey*, General of the *Brabanzons* his Mercenary Soldiers, going about the Castle to observe what Place was fittest for an Assault, *Bertram de Gurdon* from the Walls, shot a barbed Arrow at the King, and gave him a mortal Wound in the Arm. The King was immediately carried to his Lodgings, but gave Com-

mandment to his Forces to prosecute the Siege without Intermiſſion; which they did, and taking the Castle, put all the Defenders of it to Death except *Bertram*, who was reserved by the King's Command. The Arrow was drawn out with great Torture and much mangling of his Flesh, by an unskilful Chirurgeon belonging to *Merchard*, which caused him to despair of Life, and by Will to dispose of his Estate, three Parts to his Brother *John*, and one to his Servants. Before his Death, he called for *Bertram de Gurdon* to be brought to him, and demanded of him what Hurt he had done him which provoked him to do him this Mischief? *Bertram* replied, 'Thou didst kill my Father and two Brothers with thine own Hand, and now orderest me to be slain: Take what Revenge thou wilt upon me, I willingly endure any Torment thou canst inflict, since I have slain thee who has done such, and so much Mischief to the World.' The King notwithstanding his rough and desperate Answer, caused him to be set at Liberty, not only forgiving him for his Fact, but commanded an hundred Shillings to be given him; but *Merchard*, after his Death, caused him to be fled alive and afterwards hanged.

1199.
1 John.

Proceedings against **ARTHUR, Duke of Bretagne.**
Anno. 1202. 4 JOHN.

1202.
4 John.

Prince Arthur.

ARTHUR, Duke of Bretagne, was the Son of *Geoffry* the eldest Brother of King *John*, and entring into a Confederacy with the French King, for the

Recovery of his Dominions in France as well as England, was taken Prisoner at the Battel of *Mirabel*: King *John* having this Prince in his Power, endeavoured

1202.
4 John.

to

1202.

4 John.

Duke of
Bretagne
murdered.

to perswade him to relinquish his Claim, and abandon his Ally *Philip*, the French King; but the Duke insisted on his Right to the Crown of *England* as well as the Provinces in *France*, and rashly told his Uncle, he should never enjoy them peaceably while he lived; at which King *John* was so exasperated, that he ordered him to be confined close Prisoner in a strong Tower on the Walls of *Rouen*, after which he was never heard of; most People supposing he was put to Death, and some pretended to say by the King's own Hands, who coming to the Tower in a Boat in the Night-time, dispatched him with his Sword, and ordered his Body to be thrown into the River *Scyne*; tho' it was given out by those who had the Custody of this Prince, that he fell into the *Scyne* and was drowned, as he attempted to make his Escape; which if true, one would think the King should have taken Care to have seen well proved, to discharge himself of the Odium of being the Murderer; whereas, his making no Enquiry into it, made it generally supposed he was the Author of this Prince's Death.

The Princess *Eleanor* the Sister of *Arthur*, was by an arbitrary Order of King *John*'s, sent to *England* and committed

to the Castle of *Bristol*, where she died: So that King *John* may well be deemed the Murderer of both these Princes, whose Dominions he usurped; but he was soon after deprived of his French Dominions, by a Sentence of the Peers of *France* of the following Tenor, viz. *That John Duke of Normandy being unmindful of his Oath to Philip his Lord, had murdered his eldest Brother's Son, an Homager to the Crown of France, within the Seignory of that Kingdom; whereupon he is adjudged a Traytor, and as an Enemy to the Crown of France, to forfeit all his Dominions which he held by Homage; and that Re-entry be made by Force of Arms.*

Whereupon it appears, that most of the Towns of *Normandy* revolted to *Philip*, and the rest made a very feeble Defence. Even *Rouen* the Capital, surrendered to the French King before the Year expired, and the Provinces of *Maine*, *Touraine*, *Anjou* and *Poitou* revolted to the French King the Year following: King *John*'s Cruelty and Injustice was so detested by the English Barons, that they refused to assist him in his foreign Wars, and confederating against him afterwards, very near dispossessed him of the Crown of *England*.

1202.

4 John.

Proceedings against three Oxford Students: Anno 1209.

II JOHN.

1209.

11 John.

Oxford Students.

ANOTHER Instance of the Cruelty and Injustice of this Reign, is the hanging three Students of *Oxford*, of which we meet with the following Relation, viz. One of the Students having killed a Woman, the King's Officers apprehended three others, that were not guilty of the Fact, and immediately hanged them, without bringing them to a Tryal: At which the University were so

terrified, that they left *Oxford*, to the Number of three thousand, some of them going to *Cambridge*, and others to *Reading*, where they continued their Studies, and that University was abandoned for several Years; nor does it appear that these Officers were ever called to account, or that this King ever invited the Students back again, or offered to secure them against such Outrages.

1209.

11 John.

Proceedings against the Jews. Anno 1210. 12 JOHN.

1210.
12 John.

Jews oppressed.

KING John this Year arbitrarily commanded all the Jews of both Sexes throughout England to be imprisoned, till they would make a Discovery of their Wealth; which he appointed Officers to receive in every County, and return to his Exchequer. Many of them no doubt pleaded Poverty, or pretended to have given up all: But as the Tyrant was in earnest to have their last Farthing, he extorted it by the most cruel Torments.

Stow says that the Generality of them had one Eye put out. And Matthew Paris tells us, that from one particular Jew at

Bristol, the King demanded no less than twenty thousand Marks of Silver, (a prodigious Sum in those Days!) which being resolutely denied him, he commanded one of his great Teeth to be pulled out daily till he consented. The poor Wretch, whose Money was his Life, had the Courage to hold out seven Operations, but then sinking under the Violence of the Pain, ransomed the Remainder of his Teeth at the Price demanded. The whole Sum extorted from them at this Time amounted to above threescore thousand Marks of Silver.

1210.
12 John.

1212.
14 John.

Welch Hostages.

THE King also caused twenty eight Hostages of the principal

Families in Wales to be hanged at one time, viz. 1212, 14 John.

1212.
14 John.

Proceedings against the Lady MAUD, Anno 1213.
15 JOHN.

1213.
15 John.

Lady Maud.

Poisoned.

KING John it seems gloried in his extravagant Lusts, and having abused the Wives and Daughters of many of the Nobility, would boast of it to their Faces; but attempting the Chastity of Maud, the fair Daughter of Robert Fitz-Walter, one of the greatest Barons of England, who endeavoured to defend his Daughter's Honour, the King found means to get her privately poisoned; at which the Lord Fitz-Walter was so exasperated, that he entered into a Conspiracy with several other Barons, and raised a Rebellion against the King, which he was not able to suppress but by granting his Enemies their own Terms.

But all the Rapes and Murders of this Prince were in some measure punished by

a general Insurrection of his Barons against him, and by a Bull of Pope Innocent, whereby he was sentenced to have forfeited his Crown, and his Dominions transferred to Phillip King of France; nor could he get it reversed but by becoming the Pope's Vassal, and swearing Allegiance to him as his Sovereign. And still the Barons refused to lay down their Arms, but by joining with Lewis the French King's Son, continued to harass his Troops and make War upon him, till his Defeats and Disgraces so affected him, that they are generally thought to have been the principal Occasion of his Death.

1213.
15 John.

Proceedings against CONSTANTINE, and other Citizens
of London, for a Riot by an Arbitrary Sentence. Anno
1222. 7 Hen. III.

1222.
7 Hen. III.
Constantine
and other
Rioters.
Their Cafe.

OF this Riot, and Execution of the Offenders, Doctor Brady has given us the following Account extracted out of the Records.

A great Wrestling Match was appointed between the Citizens of London, and the Country People near adjoining, on St James's Day this Year, wherein the Citizens were Conquerors, which was highly resented by the Steward of the Abbot of Westminster; he therefore appoints another Meeting on the first of August, to which the Citizens flocked in great Numbers, but found they had Weapons as well as Men to contend withal, for the Steward and his Assistants being armed came upon them unawares, wounded many, and put the rest to flight.

The Citizens returned into the City meditating revenge, and met in great Numbers. Serlo, the Mayor hearing of their tumultuous Proceedings, came to them, and advised them, to make their Complaint of the Injury they had received to the Abbot of Westminster, and if he would punish the Offenders to take that for sufficient Satisfaction. But Constantine a Man very popular among them opposed this Method, telling them, the Abbot and Steward deserved to have their Houses pulled down and levelled with the Ground. This Counsel was approved of and executed by the Rabble to the great prejudice of the Abbot: When Hubert de Burgh the Justiciary, had Notice of these riotous Proceedings, he came to the City with some Troops of Soldiers, and commanded the principal Citizens should with speed come to him, of whom he enquired who were the Authors of this Sedition and Subverters of the King's City, and who they were that thus dare presume to break the King's Peace. Constantine answered,

They had done less than they ought to have done, and would stand to what they had done: Adding, The King had violated his Oath, whereupon Lewis justly refused to perform what was covenanted between them. When the Justiciary heard this Confession, he dismissed all but Constantine and his Nephew, and one Geoffry that proclaimed Constantine's Edict, whom he ordered to be hanged next Morning. When the Rope was about Constantine's Neck, he offered 15000 Marks of Silver for Pardon, but to no purpose. When the Sentence had been pronounced without Noise or Knowledge of the Citizens, Falcasus with a Guard carried him by Water upon the Thames to the Place of Execution.

After this the Justiciary and Falcasus (i. e. Fauks de Brent) with a considerable Guard, went into the City, and whomsoever he found guilty of the Sedition he imprisoned, and caused either their Hands or Feet to be cut off, and then set them at Liberty, many fled for fear and never returned; and for a greater Punishment to the City, the King turned out all the City Magistrates, and appointed new Prefects, Governors or Officers in their Place. (Rex in majorem vindictam Omnes Urbis Magistratus deponens, novos in Civitate constituit Praefectos.)

Not long after the King named thirty Citizens to be Security and Hostages for the Good Behaviour, preserving the Peace and faithful Service of the City of London: The Community whereof bound themselves to the King by a Chart sealed with their Commune Seal, to deliver them or more to the King or Justiciary whenever they were called for, and if any of them died to add others.

1222.
7 Hen. III.

Constantine
executed.

Other Rioters
their
Hands and
Feet cutt off.

Proceedings against STATE CRIMINALS.

Proceedings against HUBERT DE BURGH, Chief Justice or Justiciary of England, and Earl of Kent, for the Year 1222. 7 HEN. III. to the Year 1243.

1222.
7 Hen. III.
Hubert de
Burgh.

The first
Charge a-
gainst him.

THE first Complaint we meet with against the Justiciary *Hubert de Burgh*, was in the Year 1223, when 'tis said, The Great Men (*MAGNATES ANGLIÆ*) charged him with exasperating the King against them, and that he did not duly administer Justice; but the greatest Provocation was, That he had obtained a Bull from *Rome* declaring the King of Age, and required such Noblemen as were possessed of any of the King's Fortresses or Castles during his Majesty's Minority, to deliver them upon Pain of being excommunicated. The next Charge I meet with is, That he advised the King to cancel the Charter of the Forest he had granted in his Minority.

In the Year 1229, it appears that the King himself charged the Justiciary with disappointing an Expedition he intended for the recovery of the *English* Territories in *France*, and receiving five thousand Marks of the Queen of *France* for his Treachery, and that the King in his Passion drew his Sword and would have killed the Chief Justice, if he had not been prevented by *Ranulph* Earl of *Chester*; and that being restored to the King's Favour, he incurred his Displeasure again in the Year 1232, and was required to give an Account of his whole Administration, whereupon he fled and took Sanctuary in the Priory of *Merton* in *Surrey*.

The Chief Justice being now in Disgrace, his Enemies charged him with the following Crimes, viz: That he had procured *William* Earl of *Salisbury*, *William* *Mareschal* Earl of *Pembroke*, *Fulk* *Archbishop* of *Canterbury*, to be poisoned: That he had gained the King's Affection by Sorcery and Witchcraft. Others accused him of Injustice, Extortion and Rapine. And the *Londoners* entered their Complaint against him for Condemning their Fellow Citizen *Constantine* to be hanged without Legal Process. All which Crimes were so aggravated before the King, that he caused it to be proclaimed in *London*, that who-

ever had any Complaint against *Hubert* should come to him, and he should have Justice done him.

On the 14th of September, the King assembled the Bishops and other Prelates of Churches, with the Nobility of the Kingdom at *Lambeth*. (*Convenerunt apud Lambetham, ad Colloquium in Exaltatione Sancte Crucis coram Rege Episcopi & alij Ecclesiarum Prelati cum Proceribus Regni.*) Before whom *Hubert* the late Justiciary, being now to answer the Articles objected against him, fearing the King would put him to some shameful Death, kept in Sanctuary among the Canons of *Merton*, and did not appear in the King's Court to plead to the Articles against him, until the King should be in a more mild Temper. The King in a great Rage sent to the Mayor of *London*, to force him from thence, and bring him dead or alive. The *Londoners* glad of this Opportunity to revenge themselves upon *Hubert*, upon ringing the Common-Bell, gathered together in great Numbers (as it was reported 20000 of the Rabble.) But some of the most discreet Citizens dreading the ill Consequence of such tumultuous Proceedings, went to the Bishop of *Winchester's* House in *Southwark*, and desired his Advice, who told them that whatever came of it, they must execute the King's Precept. But *Ranulph* Earl of *Chester*, hinted to the King, that if such tumultuous Proceedings were countenanced, such a Sedition might be raised, as would not easily be appeased; adding, that it would be a great Reproach to him abroad, when they heard he thus treated those that had been his Favourites: which so wrought upon the King, that he presently dispatched a Messenger with Letters to revoke his former Precept. At this the Citizens were startled, being disappointed of their Revenge and returned into the City.

After this the Archbishop of *Dublin* prevailed with the King to grant *Hubert* till the Octaves of *Epiphany* to prepare his Answer.

1222.
7 Hen. III.

1222.
7 Hen. III.

Answer. In the mean time he designed a Visit to his Wife, who was then at *St Edmund's Bury*. When the King heard of it, he sent *Godfrey Craucumbe*, with three hundred armed Men to apprehend him, and bring him Prisoner to the Tower. They found him in *Essex* in a small Chappel, with a Cross in one Hand, and the Body of our Lord in the other: They wrung the Cross and Body out of his Hands, and without any respect to the Place, they violently drew him out, and having fettered him, and chained his Feet under the Hors'es Belly, they brought him in a most despicable manner to *London*, and put him into the Tower. When *Roger Bishop of London* heard how *Hubert* had been treated, he hastened to the King, and very severely rebuked him for breach of the Churches Peace; and if he did not presently set him at Liberty, and send him again to the Chappel from whence he was taken, he would excommunicate all that were concerned in this Violation of the Churches Peace.

The King being made sensible of the Fault, sent him back again to the Chappel from whence he was taken. But at the same time sent to the Sheriff of *Hertford* and *Essex* upon Pain of Hanging, to go in Person with all the Men of both Counties (*cum omnibus hominibus duorum Comitatum*) and encompass the Chappel, that *Hubert* might neither make his Escape, nor receive any Victuals from any one. Then the Archbishop of *Dublin* his only Friend, supplicated the King with Tears, to know his Pleasure concerning *Hubert*. The King offered him three Things; Forever to abjure the Kingdom; Perpetual Imprisonment; or openly to own himself a Traytor. But *Hubert* would choose neither of them, being conscious to himself that he had done nothing to deserve so great Confusion. Yet to satisfy the King, he would be content to go out of the Kingdom for some time, but would not abjure. But rather than be starved, he yielded himself to the Sheriff above-mentioned, who brought him up to *London* fettered and chained, and delivered him Prisoner to the Tower.

About the Feast of *St Martin* following, (*instanti Festo Beati Martini*) the King was informed that *Hubert* had much Treasure lodged with the *Templars*, whereupon the King sent for the Master of the *New Temple* to know the Truth of it, who acknowledged the Money, but could not tell the Sum, but refused to deliver it unless authorised by *Hubert*.

Then the King sent the Treasurer with the Justices of the Exchequer to *Hubert*, who in the King's Name demanded of him, all the Treasure he had lodged with the *Templars*. *Hubert* replied, He would readily submit himself and all that he had to the King's Pleasure, and presently authorised the *Templars* to deliver all the Keys of his Treasure to the King; which when he had received, he commanded an Inventory to be made and delivered to him, and all the Money to be paid into his Exchequer. When his Enemies saw his great Treasure, they accused him to the King of Theft and Fraud, urging he deserved a shameful Death. To whom the King seriously replied, That *Hubert* had faithfully served his Uncle *Richard* and his Father (as he had heard) and if he had been otherwise to him, he should never be put to Death; for he had rather appear too easy, than too cruel to him, who had so often preserved both his Predecessors and himself in great Danger. The King now softened into Compassion, granted to him all the Lands his Father had given him, and those he had purchased for his present support; and soon after *Richard* the King's Brother, *William Earl of Warren*, *Richard Earl Marechal*, *William Earl of Ferrars*, became Sureties for him. He remained in the Castle of the Devises, under the Custody of four of their Knights.

Hubert de Burgh, being Prisoner in the Castle of the Devises in *Wiltshire*, had Notice from a Friend at Court, that the Bishop of *Winchester*, his great Enemy, had earnestly desired of the King the Custody of that Castle, that so (as it was said) he might have an Opportunity to dispatch him. Upon this Information, *Hubert* by the Assistance of two Servants that waited on him, made his Escape on *Michaelmas-Eve* out of the Castle, and got into the Parish Church: so soon as it was known he was gone out of the Castle, many of the Garrison went out with Lanthorns, Clubs and Arms to seek him. They found him in the Church before the Altar with a Cross in his Hand; they beat and banged him, driving him and the two that helped him to make his Escape into the Castle, and put him under a strict Guard.

When the Bishop of *Salisbury* had heard what was done, he went to the Castle and commanded those that had violated the Privilege of the Church, that they should carry him back and leave him in the same state they found him. They told the Bishop they had rather *Hubert* should

1222.
7 Hen. III.

1223.
8 Hen. III.

should be hanged than themselves; whereupon he excommunicated all by Name that refused to do what he bad them, and with the Bishop of London, and other Bishops, obtained his Liberty of the King, and he was sent back to the Church. (*Decimo quinto Calendarum Novembris*) That is on the 18th of October. The King upon this being very angry, ordered the Sheriff of the County so to guard the Church, as he might be starved for want of Victuals.

But on the 30th of October, Hubert, by the Assistance of his armed Friends, was taken out of the Church by force, and having been by them armed like a Soldier, made his Escape in that disguise to Wales, and joined himself to the King's Enemies. However he soon afterwards made his Peace with the King, and was admitted a Member of the Privy Council.

In the Year 1237, it appears that Hubert incurred the King's Displeasure again, by marrying Richard Earl of Gloucester his Ward, to his Daughter Margaret without the King's Consent, but was soon reconciled again; Hubert protesting that he did not know the King had designed another for him: and also promised to pay a Sum of Money which appeased the King's Anger.

Articles of High Treason however were preferred against the Earl, by the Procurement of the King in the Year 1237. Of the following Tenor, (*Viz.*)

That he had traiterously corrupted the Daughter of the King of Scotland, who had been committed to his Tutelage by King John. Also that he lost Rockbell, and all Poictou, sending over Bags full of Stones and Sand instead of Coin, for the Soldiers there besieged, having stolen away the Money. Moreover that he had traiterously suffered the Castle of Bedford to be lost, and that while he was under his Tutelage he had consumed his Treasure, converting it to his own use, and bought Lands of great Extent therewith.

Also that in the Wars of Brittany against the French, by his Treachery a great part of the English Army was lost.

Likewise, that he had caused a Marriage privately to be made with Richard de Clare Earl of Gloucester and his own Daughter; thereby machinating Treason against the King himself.

Furthermore, that he had perniciously hindered his Marriage with a noble Lady; privately insinuating to her and her Father, that he was silly, dishonest, tainted with Leprosy, deceitful, forsworn, and more weak than a Woman; cruel to his own Subjects, and wholly carried away by the Allurements of Women.

And besides all this, it was farther laid to his Charge, that he had destroyed his Woods in those Forests where he had to do; and that on a time being at his Palace of Woodstock alone with him in his Chamber, he drew his Knife upon him to cut his Throat; and in conclusion, sharply told him, that for his Insolence, he deserved not only hanging, but drawing also.

Whereupon bowing himself he said, Sir I was never Traytor to you nor your Father; and did evidently demonstrate it by sundry Particulars. Nevertheless to satisfy the King and appease his Wrath, he was there adjudged to give up four of his chiefest Castles. *viz.* Bewcastle, Crosmunt, Skenefrith, and Hasfield, to the end he might enjoy the rest of his Possessions quietly.

This was in 24 Hen. III. where the Record of that Year doth express, that after all those great Troubles and Sorrows he totally submitted to the King's Grace and Favour, and delivered up his Castles of Skenefrith, Crosmunt, and Bewcastle in Wales, as also his Castle of Hetblegh, with the Town and Park: and that the King thereupon was pleased that he and Margaret his Wife, should during their respective Lives, and the Life of the Survivor of them, enjoy all his other Lands whatsoever by whomsoever granted, and to receive him into his full Grace and Favour.

And this Gentleman died at last a natural Death in the Month of May, 1243. 27 Hen. III. and was buried in the Convent of the Black-Fryers in London.

1223.
8 Hen. III.

Articles of
High Treason
against
him.

H

Proceedings

**Proceedings against Jacob a Jew of Norwich for Felony,
in Stealing away, and circumcising a Christian Child.
Anno. 1234. 19 HEN. III.**

1234.
19 Hen. III.

Jews.

The Charge
against th. m.

THE case was this, a Boy of five Years old was playing in the Street, several Jews seized and conveyed him to the House of the aforesaid Jacob, where they kept him a Day and Night; and then binding his Eyes with a Napkin, cut off his Forekin, which they put into a Basin and covered it with Sand, after which blowing the Sand with their Mouths till they found it again, (the Person who first discovered it being called *Jurnepin*) the Boy from him was ordered to be called *Jurnepin*, and declared a Jew. Upon Trial of the Fact, (besides the Boy's own Evidence) the Archdeacon of *Norwich*'s Official, together with a great number of Priests, deposed on Oath, that they saw the Boy presently after his Circumcision, and that his Member was very much swollen and bloody. And one *Maud* likewise deposed, that after the Boy was taken home again, several Jews came to her and bad her have a care how she gave him any Swines Flesh to eat, for he was a Jew.

But though all this was allowed, the difficulty of the Case seems to have been this; the Indictment as appears from the Record was not brought till four Years after the Fact committed; and when the Skin by some art or other had been made to grow again. Now supposing that originally it might have been judged *Maiming*; yet since no Member, or part of one was wanting at the Time of Prosecution, much might be said on both sides whether it was then such a Felony as was laid in the Indictment or not. The matter therefore appearing doubtful, and the Bishops protesting that Baptism and Circumcision were Matters of Faith; the Cause ought to be tried in their Courts, the Parliament consented to part with it.

The Cause therefore being thus dismissed from Parliament, came to a fresh Hearing before *William de Raleigh*, Bishop of *Norwich*, who soon condemned four of the Criminals to be drawn at a Horse's Tail and hanged. It seems the Citizens of *Norwich* upon this occasion fired the

Jews Houses. For in *Placit. 18. H. III. Rot. 27. in dorso*, there is a Complaint of the Citizens of *Norwich*, against the Sheriff of *Norfolk* for entering their Liberties, beating their Servants and assisting the Jews, who justified, because the Citizens had fired the Jews Houses; which Business was debated before the King at *Brombolme*; where the Sheriff proving his Justification, and that the Bayliffs of the Town had made no Inquisition concerning the Burning, as they were obliged to do by Office; they were fined fifty Marks.

In the Plea Rolls of the same Year we meet with several Complaints and Inquisitions concerning the Bribery and Corruption of *Peter de Rivallis*, *Stephen de Segrave*, and *Robert de Passelew* Justices, of the Jews, against whom *Simon Circographarius Judaeorum, petit Literas*. The Event of which was, that *Peter de Rivallis* being deposed from his Office and obliged to surrender *Totum Forestarium suum*, or Justiceship of the Forest, and *Robert de Passelew* was also removed: of which the Jews had notice given them by the Constable of the Tower, according to the King's Mandate.

Mandatum est Constabulario Turr. London. quid scire faciat Judaeis London. & aliis Judaeis qui apud London. venerint, quod de cetero in nullo sint intendentes vel respondentes Roberto Passelew, de his quae ad Custodiam Judaeorum pertinent, donec dominus Rex aliud inde praeceperit.

T. Rege apud Gloucest. 30. die Maii.

Clauſ. 19. H. III. pars 1. M. 21.

This Office of Justice of the Jews must needs have been very profitable, or it would never have been accepted by two such Men as *Rivallis* and *Passelew*; both of them Treasurers of the Kingdom successively.

In the Year 1262, 47 Hen. III. the Barons being then in Arms and Masters of the City of *London*, to ingratiate themselves with the Citizens suffered them to plunder and murder the Jews under pretence that one of them had wounded a Christian

Another
Massacre of
the Jews.

1234.
19 Hen. III.

Christia Child; and such was their Fury that before any Proof was made of the Fact, the Rabble murdered seven hundred of that unhappy People, and burnt their Synagogue to the Ground: the pre-

tence for which Cruelty, was, that one of them had stricken and wounded a *Christian* in *Cole-Church*, for refusing to pay more than two Pence a Week for the Loan of twenty Shillings.

1234.
19 Hen. III.

Proceedings against the Jews of Oxford, for trampling on the Cross. Anno. 1268. 53 HEN. III.

1268.
53 Hen. 3.

Jews of Oxford.

Their case.

THE Case was this, the Chancellor, Masters and Scholars of the University, with all the Parochial Clergy going in a Solemn Procession on Ascension Day, to visit the Reliques of *St Frideswide* with the Cross born before them: a certain Jew of the most consummate Impudence, violently snatched it from the Bearer, and trod it under his Feet, in token of his Contempt of *Christ*. To punish which impious Affront, as soon as it was made known to the King, (by his Son Prince *Edward*, who happened to be then at *Oxford*) he caused strict search to be made after the Criminal, and upon not finding him, commanded all the Jews of the Town to be forthwith imprisoned, and that they should erect at their own proper Cost and Charges, in the Place where the Fact was committed, a stately MARBLE CROSS, of most perfect Workmanship, having on one side the Figure of our Saviour crucified, and on the other the Image of the Virgin *Mary* with our Saviour in her Arms; all which was to be gilt with fine Gold: and at the top of the Cross was to be an Inscription containing the cause of erecting it. They were likewise ordered to present another portable Cross of Silver gilt, to the two Proctors, to be used by them in all future Processions of the University; the Size of which was to be such as was

usually born before Archbishops: and as the Sheriff of the County was to see all this done before the Vigil of the next Epiphany; he was commanded out of Hand to levy the Expences of it, and to suffer no Jew to dispose of any of his Effects, till he had either paid his Proportion or given Security for it. But (as they had timely notice given by their Friends in *London* of what was coming against them) before the Writ could be delivered to the Sheriff they had privily made over their Goods to several of the Townsmen, so that the Work could not possibly go forward for want of Money. To remedy which Fraud the King by his Writ (wherein he recites all that had passed) commanded the Sheriff to take to his Assistance the Mayor of the City, and seize upon the Jews Effects wherever they could find them, and then carry on the Work with the utmost Expedition.

1268.
53 Hen. 3.

In the following Reign, Anno 1278. two hundred and eighty Jews of both Sexes were convicted and executed for clipping and debasing the Coin in *London* only, besides many more in other parts of the Kingdom. The Records of this Year abounding with Instances of the King's granting away the Lands and Houses they had forfeited on this occasion.

Two hundred and eighty Jews executed.

Proceedings

*Proceedings against the Citizens of Norwich for a Riot,
burning and plundering the Cathedral Church, and the
Monastery adjoining, and murdering several of the Monks.
Anno. 1272. 56 HEN. III.*

1272.
56 Hen. III.

Norwich Ci-
tizens.

THE King receiving Advice of the said Riot, summoned all the Bishops and great Men of the Kingdom to meet at *St Edmundsbury* on the first of *September* this Year, to advise with them how to proceed against the Rioters; and this Great Council being assembled accordingly, his Majesty was advised to go to *Norwich* in Person, and chastise the Insolence of the Citizens; whereupon he issued his Precept to *William Gifford* Sheriff of *Norfolk* and *Suffolk*, dated *September 6* at *St Edmundsbury*, to summon all the Knights and Freeholders of both those Countries that held twenty Pounds *per Annum*, and above to appear before him at *Norwich* on the fifteenth of the same Month to do as they should be directed by him, with the Advice of his Council: the same Writ was likewise issued to the Sheriff of *Cambridge* and *Huntingtonshire*, to summon twenty-four Knights and Freeholders that had twenty Pounds *per Annum*, and above, to be also at *Norwich* the same Day, as appears upon Record.

Out of these Knights and Freeholders (being eight and forty in all) returned from these four Countries were chosen several Grand Inquests or Juries, who were to enquire upon Oath into this Offence, and who were concerned in it either in the City of *Norwich* or elsewhere; and by these a great many being found guilty before the King's Justices they were condemned to be drawn by Horses Tails to the Gallows, and there to be hanged, and their Bodies to be burnt, which was executed accordingly.

The Charge
against them;
from *Bartho-
lomew de
Cotton*.

Bartholomew de Cotton a Monk of the Priory of *Norwich* relates, that in the beginning of this Fray, the Citizens of that Place besieged the Monastery, and when they could not enter it, they set Fire to the Gates, which not only burnt the Gatehouse, but a Parish Church adjoining to it: then some of the Seditious at the same time shot Arrows with Fire on them from the Tower of *St George* into the

Great Bell-Tower beyond the Choir, by which means the whole Church was burnt (except the small Chappel of *St Mary*) as also all the Rooms and Lodgings belonging to the Prior and Monks: In the mean time the Rabble entering the Close, plundered and carried away all the Sacred Vessels of the Altar and other Ornaments that the Fire had not yet destroyed; and not content with this, they killed and wounded several Deacons and Clerks belonging to the Monastery within the Close itself, and drove away all the Monks, and continued their Malice in killing and plundering for almost three Days together.

But the abovesaid Monk here finds great Fault with the Injustice of these Proceedings; and that the richer sort of Citizens who had also (though privately) engaged in, and promoted this Riot corrupted with Bribes not only the King's Justices and his Council, but the Grand Inquest of Knights and Freeholders of the Counties already mentioned, who, tho' upon their Oaths, falsely found the Fire that burnt the Church to have first begun in the Bell-Tower belonging to it, so that all farther Prosecution against the Townsmen ceased; and divers things were laid to the Charge of *William de Burnham* the then Prior, insomuch that he was committed to the Bishop's Prison, and all the Lands belonging to the Priory were for some time seized into the King's Hands, as likewise the Liberties that had been granted to the City of *Norwich*, so that the Prior not long after resigned, and a new one was chosen in his stead. But the Bishop of *Norwich* (having before in a Synod of the Clergy of his Diocese, excommunicated all Persons concerned in this Sacrilege) kept the City of *Norwich* by times under an Interdict for near three Years ensuing, till the Citizens could obtain their Absolution from *Rome*, and compound for their Offence with King *Edward*, which they did for two Thou-
sand

1272.
56 Hen. III.

1272.
56 Hen. III.

land Marks, having been condemned to pay three Thousand in his Father's Reign, had he not died before it could be levied.

The Annals of *London*, give a very different account of this Riot. They inform us, that a Quarrel arising between the Citizens and Monks of *Norwich*, about certain Privileges and Jurisdictions, which the latter claimed, and the former would not agree to; the Monks in revenge, sent their Servants into the City to beat and outrage the Citizens, who being thereby provoked and finding they could have no redress upon their Complaint, fell upon the Servants of the Priory wherever they met them in the City, and beat them soundly; the Prior thereupon sent for a great body of Seamen from *Yarmouth*, and formed a kind of Guard in the Priory; and from thence with their Assistance again assaulted the Townsmen, who joining together repulsed

the Seamen, and besieged the Monastery; and in order to take it, set fire to the Gates thereof, which burnt the Gatehouse, and from thence the Church was at first supposed to have been set on Fire; but it was afterwards discovered that a Priest belonging to it, having hired certain *Smiths* to forge Arrow-heads in the Bell-Tower, these when they saw the Gatehouse on Fire, ran down to quench it, leaving their own Fire of Coals burning carelessly behind them; the Sparks whereof being blown about by the Wind into some combustible Matter, set on Fire first the Tower, and then the adjoining Church and Monastery: and it was found by the Inquest of eleven Knights of the County of *Norfolk*, that the Church was burnt by the means of that wicked Priest who had brought up those Workmen into the Bell-Tower, which agrees with *Bartholomew de Cotton's* Relation.

1272.
56 Hen. III.

Proceedings against DAVID, Prince of Wales, for High Treason. Anno 1283. 11 EDW. I.

1283.
12 Edw. I.

Prince of Wales.

The Charge against him.

Convicted and executed

THE Treason this Prince was charged with was, Rebellion against the King after his eldest Brother, Prince *Leoline* or *Lewellin*, had submitted to become a Vassal and Tributary to the Crown of *England*: For which he was, by the Judgment of the Peers of *England*, condemned to be dragged at a Horse's Tail through the Streets of *Shrewsbury*, then to be beheaded, his Bowels burnt, and his Body quartered, his Head to be set up on the Tower of *London*, and his Quarters in the four Cities of *Bristol*, *Northampton*, *York* and *Winchester*: which Sentence was accordingly executed; he being the first Nobleman on whom this cruel and ignominious Punishment was inflicted for high Treason; tho' this is now, with very little Alteration, become the usual Judgment in Treason.

His History.

The Reason given for making this Prince so terrible an Example of the Royal Vengeance, is said to be his Ingratitude as well as Rebellion against the King; but the Reader will be best able to form a Judgment of the Case from the Histories of those Times.

Upon the Accession of King *Edward*, he summoned *Lewellin* or *Leoline* Prince

of *Wales*, with the rest of the Nobility and Vassals of the Crown to attend and perform their respective Services at his Coronation, but *Lewellin* took no Notice of the royal Summons: he was afterwards summoned to several Parliaments, but did not think fit to appear; not that he denied his Vassalage or Dependence on the Crown of *England*, but said, he too well remembered the Fate of *Griffith* his Father Prince of *Wales*, who being imprisoned in the Tower of *London*, and endeavouring to make his Escape from thence, broke his Neck in the Attempt. Upon the Receipt of which Answer, the King determined to invade his Principality with a powerful Army, and the War continued with various Success for several Years; during which, *David* the Prince's younger Brother, happening to have some Misunderstanding with *Lewellin*, fled into *England*, and put himself under the King's Protection, who knighted *David*, gave him the Earl of *Derby's* Daughter in Marriage, made him a Grant of the Castle of *Denbigh*, with a Revenue of one thousand Pounds per Annum.

In the mean time, the King's Forces having defeated those of *Lewellin* in several Engagements, that Prince was compelled

1283.
12 Edw. I.

1283.
12 Edw.

compelled to beg Peace, which he could not obtain but upon the following Terms; viz. 1. That he should pay the King fifty thousand Pounds towards the Charges of this War. 2. That he should relinquish all his Country to the King but the County of *Anglesey*, for which he was to pay a Tribute of one thousand Marks *per Annum*. 3. That he should come into *England*, do Homage to the King, and take the Oath of Fealty to him. 4. That his Majesty should be his Heir if he died without Issue. And, 5. That he should make Satisfaction to Prince *David* and his other Brothers for the Injuries he had done them, the two youngest being at this time Prisoners in *Wales*. And for the Performance of these Articles, he delivered ten Hostages to the King, of the principal Families in *Wales*.

The *Welch* remained in Peace till the Year 1281, when being plundered and oppressed by the Lords of the *English* Marches, as they complained, and meeting with no Redress, they determined to renew the War again; but observing how much their Country had suffered by the Divisions between the Prince and his Brothers, and particularly by *David's* serving as General in the *English* Army, who was not only a Prince of great Courage and Conduct, but perfectly acquainted with all the Passes and defenceless Places in their Country, they proposed a Reconciliation between Prince *Llewellyn* and his Brother *David*, and to make him General of their Army; which Prince *Llewellyn* consented to, upon Condition that *David* would never serve the King of *England* again, but for ever remain his Enemy; which *David* consented to, and deserting the King's Service, put himself at the Head of the *Welch*, and took the Castle of *Harwarden*, wherein was

Sir *Roger Clifford*, one of the Justices of the Marches, who was grievously wounded in the Attack, and the Garrison put to the Sword: Whereupon the King marched down with a powerful Army to *Shrewsbury*, whither he removed the Courts of Justice, that he might be near at hand to attend the Operations of the War. And finding his Enemies more formidable than he expected, proposed Terms of Peace to them by the Archbishop of *Canterbury*; but these Terms amounting to little less than an absolute Submission were rejected, and the War carried on with great Vigour on both sides; and the King's Forces receiving a considerable Defeat near *Anglesey*, the *Welch* had great Hopes of recovering their former Independency, till their Prince *Llewellyn* happened to be surprized and killed in a Skirmish; whose Head being cut off and sent to the King, he ordered it to be set up on the Tower of *London*. The *Welch* being entirely dispirited upon the Loss of their Prince dispersed, and Prince *David* was made Prisoner soon after: the King refused to see him, but commanded him to be committed to the Castle of *Chester*, till the Peers, (or according to *Tyrrel*) the Parliament, were assembled at *Shrewsbury*, who passed that Sentence upon him already mentioned; but whether Judgment was given against him by the Peers, or it is to be looked upon as an Act of Attainder, does not appear; nor that he was ever brought before them to make his Defence, and therefore may well be ranked among those Noblemen who were put to Death without a legal Tryal. I shall only observe, that this was the last of the Princes of *Wales*, who pretended to the Sovereignty of that Country, which was this Year 1283 made a Province of *England*.

1283.
12 Edw.

Proceedings

Proceedings against Sir RALPH HENGHAM, Chief Justice of the King's Bench, Sir THOMAS WEYLAND, Chief Justice of the Common-Pleas, and several other Judges and great Officers, for Bribery and Corruption in their respective Offices. Anno 1289. 17 EDW. I.

1289.
17 Edw. I.

Corrupt
Judges,

their Charge

Their Pu-
nishment.

OUR Histories give us no particular Instances of the Corruption of these Judges and great Officers, but only inform us, That they were charged in general with Venality, and selling Justice to the Subject during the King's Absence in France; they do not furnish us with the Evidence against them, or any Part of their Defence; and to me it remains a Doubt, whether they ever had a formal Trial; they were examined indeed, as to some particular Facts on their Apprehension, and Witnesses were examined against them in Parliament, but their Punishment seems to have been inflicted by the Legislature, which was assembled at this time principally to consider of their Crimes and the Punishment they deserved. But by what Court soever they were condemned, most of our Historians agree in the Sums they respectively paid; viz. Sir *Ralph Hengham*, Chief Justice of the King's Bench, seven thousand Marks; Sir *John Loveton*, Justice of the Common-Pleas, three thousand Marks; Sir *William Brompton*, Justice, six thousand Marks; Sir *Solomon Rocbester*, four thousand Marks; Sir *Richard Boylard*, four thousand; Sir *Thomas Sodington*, two thousand; Sir *Walter Hopton*, two thousand; which four last were Judges Itinerant: Sir *William Sabam*, three thousand Marks; *Robert Litbbury*, Master of the Rolls, one thousand, *Roger Leicester*, one thousand; *Roger Bray*, Escheator and Judge for the Jews, one thousand: But Sir *Adam Stratton*, Chief Baron of the Exchequer, was fined thirty four thousand Marks; and *Thomas Wayland*, who was found the greatest Delinquent, and of the greatest Substance, had all his Goods and whole Estate confiscated to the King. Which our modern Historians observe, is equivalent to three times that Sum at

this Day, and they might have said to twelve times, for a Penny then would purchase at least, as much a Shilling will now. *John Stow* in his Annals observes, That the Punishments most of these corrupt Judges were sentenced to undergo, were, perpetual Banishment or Imprisonment, and that the Sums abovementioned were not Fines set upon the Offenders, but Sums offered to the King, to pardon and reverse those Sentences of Exile and Imprisonment that had been passed on them.

These Judges pretended that the Sums they received from the respective Suitors, were no more than the usual Presents from the Parties who had Suits depending in their Courts; whereupon, the King gave Orders, that for the future, none of his Judges should receive any Present whatsoever, except it were a Breakfast, or some such trifling Present of Eatables; and it is not improbable, that Presents were usually made to the Chancellor, Master of the Rolls, and other Judges, as has been practised in our Times; or those that were taken tripping would have been punished in another Manner; for a greater Crime surely can never be committed, than the Robbing of the Suitors who apply to the King's Courts for Justice, by those very Men who are intrusted to administer Justice to the Subject.

Our Historians however suggest, that the King had not animadverted on the Venality of his Judges at this time, if he had not been in great Distress for Money on his return from France, he had suffered them long to fleece and plunder the People possibly as their Predecessors had done; but being informed that no Precedents or antient Customs could warrant such a Practice, and having a very pressing

1289.
17 Edw. I.

1289.
12 Edw. I.

ing Occasion for Money, he made no Scruple of converting that Treasure his Judges had acquired by Extortion, to his

own Use. It does not appear that any of it was applyed to make Satisfaction to the injured Suitors,

1289.
12 Edw. I.

Proceedings against the Jews, for Usury, Extortion, and debasing the Coin. Anno 1279, 1290. 17 and 18 of EDW. I.

1290.
17, 18 E. I.

Jews, the Charge against them.

THE *Jews* with some *English* Goldsmiths and Bankers being charged with clipping, washing, and counterfeiting the Coin in the seventh Year of this King: two hundred and ninety seven Persons (among whom were three *Englishmen*) were convicted of this Offence, for which the three *Englishmen* were only fined, but the offending *Jews* were hanged. In the ninth Year of the same Reign, the Parliament petitioned that the King would banish all the *Jews* on account of their Extorsions; offering to raise a considerable Sum in consideration thereof; but the *Jews* giving him a greater Sum, their Banishment was suspended till the eighteenth Year of this Reign; when the Parliament offering to grant his Majesty a fifteenth, on condition of expelling the *Jews*, he consented to it; and they were all banished the Kingdom to the number of fifteen thousand and sixty Persons. Their immoveable Goods, (*Viz.* their Houses, Leases and Mortgages) with their Tallies and Obligations being confiscated to the Crown, but the rest of their Goods with their Gold and Silver Coin and Jewels, they were suffered to carry with them, though some of them were plundered even of these by those who had the care of their Transportation; of which *Hollingshead* gives the following Instance, *Viz.*

Banished.

Some of the richest of them, being shipped with their Treasure in a mighty tall Ship, which they had hired, when the same was under Sail, and got down the *Thames* towards the mouth of the River beyond *Queenborough*, the Master Mariner bethought him of a Wile, and caused his Men to cast Anchor, and so rode at the same till the Ship by ebbing of the Stream remained on the dry Sands:

the Master herewith enticed the *Jews* to walk out with him on Land for Recreation; and at length when he understood the Tide to be coming in, he got him back to the Ship, whither he was drawn up by a Cord; the *Jews* made not so much haste as he did, because they were not aware of the danger. But when they perceived how the Matter stood, they cried to him for help; Howbeit, he told them they ought to cry rather unto *Moses*, by whose Conduct their Fathers passed through the *Red-Sea*, and therefore if they would call unto him for help, he was able enough to help them out of those raging Floods, which now came in upon them; they cried indeed, but no Succour appeared, and so they were swallowed up in Water. The Master returned with the Ship, and told the King the Matter, and had both Thanks and Reward as some have written; but others affirm (and more truly as should seem) that divers of those Mariners which dealt so wickedly against the *Jews*, were hanged for their wicked Practice, and so received a just reward of their fraudulent and mischeivous dealing.

1290.
17, 18 E. I.

The *Jews* were of use to the Princes of those Days, as appears from many instances. They could take up a Sum of Money of them in any Exigency of their Affairs, and tax them at Pleasure; and on these Accounts they were too often induced to connive at their Extorsions; our Kings therefore would never consent to part with the *Jews* without some equivalent, as appears by this Case where his Majesty did not only gain a considerable Sum by the forfeiture of their Estates, but by the Taxes that were given him in consideration of their expulsion.

Proceedings against Sir NICHOLAS SEGRAVE, for
absenting himself from his Post in the King's Army.
Anno 1305. 33 EDW. I.

1305.
34 Edw. I.
Segrave,

The Charge
against him.

THE Case was thus: Sir John Cromwell having charged Sir Nicholas with Treason, Sir Nicholas according to the Custom of those times, begged leave of the King to assert his Innocence by single Combat, but this being a time of War, when his Majesty thought he had more need of these brave Knights to encounter his Enemies, than to suffer them to throw away their Lives in private Duels, commanded them not to engage, which these Gentlemen had so little regard to, that they left the Army without leave, and transported themselves beyond Sea; where the Duel was fought; after which Sir Nicholas returned to England: The King hereupon determined to prosecute this Knight for this Contempt of his Orders, and demanded of the Judges if it did not amount to Felony or a Capital Crime; to which the Judges answered in the Affirmative; but added, That since he really went out of the Kingdom to fight his Adversary, who had brought so heavy a Charge against him, rather than in Contempt of the King's Orders, there was room for his Majesty to exercise his Mercy: To which the King answered, *Have you been all this while consulting of this? I know very well it is in my Power to shew Mercy to whom*

I please, and whoever submitted to me that hath not experienced this? but I shall not do it for your sakes any more than a Dog's, however let this Opinion of yours be Recorded, and ever hereafter be held for Law. And Sir Nicholas Segrave was thereupon apprehended and imprisoned in order to take his Trial, but was soon after set at Liberty, upon his procuring thirty Knights, or Persons of Quality to be bound Body for Body for his appearance to answer the Charge, and at the Intercession of several Noblemen, he was afterwards discharged without being brought to Trial, as I understand the Matter; though Mr Daniel and some other Historians seem to take it for granted, that he was actually tried and convicted, and his Estate confiscated by that Expression, *The King restored him his Estate.* But this is not consistent with the other part of the Relation, that upon the Judges Opinion the Offence was Capital; he was apprehended, and afterwards bailed, for if he had been tried and condemned before, he could not have been then at Liberty, neither could a condemned Person be admitted to Bail, and by the way, this seems to have been a Cause much more proper for a Court Martial, than a Civil Court to take Cognizance of.

1305.
34 Edw. I.

Proceedings against WILLIAM WALLBIS or WALLACE,
and other Scots, for High Treason and Rebellion. Anno
1305 and 1307. 33 and 35 EDW. I.

1307.
33, 35 E. I.
Wallace.
The Charge
against him.

THE Case was this: William Wallace and the Scots who adhered to him, had taken up Arms against King Edward I. after he had made an entire Conquest of that Kingdom, and the

Nobility, Clergy, and almost all the People of any Consequence, had four times taken the Oath of Allegiance to the King as their Sovereign, even by the Confession of Hector Boëtius, and other Scottish Historians,

1307.
33, 35 E. I.

1307.
33. 35 E. I.

Historians, and the concurrent Testimony of all *English* Writers. *Wallace* therefore being made Prisoner, and King *Edward* looking upon the *Scots* as his Subjects, issued a Commission to several *English* Noblemen to try *Wallace* for High Treason in *Westminster-Hall*.

His Defence.

The Prisoner did not deny the Facts of taking up Arms and engaging the King's Forces, but insisted he was an Enemy taken in War, and not a Subject of the King's, having never submitted, or taken the Oaths to him, and therefore could not legally be tried for High Treason against the King of *England*; but this Plea being over-ruled, and the Facts he was charged with fully prov'd, and confessed by the Prisoner, he was convicted and executed as a Traytor, his Head set upon *London-Bridge*, and his Quarters sent to the four principal Towns in *Scotland*, to be set up there.

Convicted and executed.

Remarks on these proceedings.

Those who are of Opinion that *Scotland* was not subdued at that time, will no doubt be of Opinion that *Wallace* was illegally put to Death, while those who are satisfied King *Edward* had made a Conquest of that Kingdom, and annexed it to the Crown of *England*, must allow his Trial and Execution to be legal; at least no Prince in *Europe*, who has taken a single Town or Province, where the People have generally submitted and sworn Allegiance to the Conqueror, will scruple to try and execute any Person he finds conspiring against his Government, in such conquered Town or Province as a Traytor, though that individual Person has not taken the Oaths to him, which was the Case of *Wallace*.

As to the History of *Wallace*, it is agreed on all Hands, he was but a private Man at the time of his appearing at the Head of the *Scots* Malecontents, in the Year 1299. This Gentleman, says the Historian, seeing his Country without a Head, and without a Heart, all the Great Men either in Captivity or in Sub-

jection, assembled a Body of Men as poor and as desperate as himself, who surprising the *English* Forces in their Quarters, and gaining many advantages of them, were encouraged to attempt the Total Expulsion of the Conquerors: But engaging King *Edward* on his return from *Flanders*, at *Fazwick*, were entirely defeated, and forty thousand *Scots* killed in the Field of Battel. *Wallace* however escaped and continued to alarm and harass the *English*, till he was betrayed by one of his Friends, and sent Prisoner to the Tower of *London*; from whence crown'd with Ivy, he was led in Triumph through the Streets to *Westminster-Hall*, where he was condemned for High Treason, and executed in the manner above related.

In the mean time King *Edward* reduced the *Scots* to his Obedience again, and calling a Parliament of that Nation at *St Andrews*, all the Great Men of the Kingdom swore Fealty to him, but had so little regard for their Oaths, that they took up Arms again Anno 1306, under the Conduct of *Robert Bruce*, whom they proclaimed their King; but being again defeated near *Perth*, in the Year 1307, and *Nigel Bruce*, Brother of King *Robert*, with several other Great Men taken Prisoners, several of them were condemned and executed as Traytors. The Earl of *Arbol*, particularly was sent to *London*, and hanged upon a Gallows thirty Foot high. The Wife of King *Robert*, being among the Prisoners, was shut up in a Monastery, and the Countess of *Buchan* a noble Lady, who had assisted at the Coronation of *Bruce*, was put in a wooden Cage, and exposed upon the Walls of *Berwick*: But *Bruce* himself having escaped out of the Battel, found means to conceal himself from the Conqueror, and in the next Reign fully revenged the Indignities that had been put upon his Country by the *English*.

1307.
33. 35 E. I.

Proceedings against WILLIAM WALLACE for High Treason and Rebellion.
1307. 33 and 35 E. I.

Proceedings

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Proceedings against PIERS or PETER GAVESTON, Earl of Cornwall, for giving ill advice to Prince EDWARD, while Prince of Wales. Anno 1307. 35 EDW. I. And afterwards to the same Prince EDW. II. after his Accession.

1307.
35 Edw. I.
Gaveston.

The first
Charge a-
gainst him.

THE first Accusation we meet with of this Nobleman, was in the latter end of the Reign of *Edward I.* when he is charged with leading the Prince of *Wales* into vicious Courses, and particularly his Hunting with the Prince in the Bishop of *Coventry's* Park, and killing the Deer; of which the Bishop, then Lord Treasurer, and Prime Minister complained to the King, suggesting that *Gaveston* would be the ruin of the Prince if he was not removed: Whereupon *Gaveston* to avoid further Prosecution, chose a voluntary Exile in *France*, and took an Oath never to return to *England* without the King's Leave: The Prince also took an Oath, that he would never recall him without the King's Licence; and he remained in Banishment during the Life of *Edward I.*

King *Edward* on his Accession to the Crown, recalled *Gaveston* from *Gascoigne*, created him Earl of *Cornwall*, and Lord of the *Isle of Man*, and made him his Prime Minister. The *English* Nobility were so exasperated to see this Foreign Nobleman thus preferred and carried, that they refused to attend His Majesty's Coronation, till he promised to call a Parliament, and take their Advice in his Administration; however *Gaveston* had the Honour of carrying King *Edward's* Crown at the Coronation: The Parliament meeting soon after, the Peers addressed his Majesty for the removal of *Gaveston*, but the King was so far from complying with them, that he gave him his Neice the Earl of *Glocester's* Daughter in Marriage, and granted him Mannors, and Lands, to a very great Value; and finding his Barons would not be appeased till he was removed from Court, made him Lieutenant of *Ireland*, and sent him over thither: But *Gaveston* returning to *England* the next Year, the Barons were so incensed at it, that they entered into

a Conspiracy against the King, and compelled him to delegate his Authority to one and twenty of their Number, whose Ordinances should have the force of an Act of Parliament. Whereupon they made an Ordinance among many others to banish *Gaveston*, and confiscated his Estate; and *Gaveston* was compelled to transport himself to *Flanders*. After which the Otdainers governed the Kingdom as they thought fit, leaving the King no manner of Authority, which induced his Majesty to recall *Gaveston* again, after he had remained in Exile something more than a Year; and the King ordered a Proclamation to be made by the Sheriff of the respective Counties, that *Gaveston* had been illegally banished without Trial, and that by his Coronation Oath, he was obliged to see Justice done him, as well as the rest of his Subjects.

The Barons hereupon broke out into open Rebellion again, and choosing the Earl of *Lancaster* their General, pursued the King from Place to Place, as if he had been their Vassal, and really revolted from their Authority. First, they drove him to *Newcastle*, then from *Scarborough*, where leaving *Gaveston*, till he went himself into *Warwickshire* to raise Troops for his Defence, they laid Siege to *Scarborough*, which *Gaveston* surrendered unto them upon Articles; two of which were, that he should be conducted in safety to the King, and that he should have a fair Trial by his Peers; but instead of carrying him to the King, they brought him to the Earl of *Warwick's* Castle, one of their Confederates, and there beheaded him, having before seized on all his Baggage and Treasure, as well as the King's.

Gaveston was a native of *Gascoigne*, His Character. then under the Dominion of the King of *England*, and for the signal Services his Father had done the Crown, King *Edward* the

1307.
35 Edw. I.

Banished by
the disaffected
Lords.

Recalled.

Beheaded by
the Rebels.

1307.
35 Edw. II.

the First caused him to be educated with his Son the Prince, whereby he had an Opportunity of recommending himself to his Favour. *Garveston* was a personable Man, very brave and dextrous in the use of his Weapons, as he manifested at the Tournament held at *Wallingford*, where he defeated the most celebrated Men at Arms among the *English* Nobility, which heightened their Aversion to him, and contributed in a great measure to his ruin: While he was Lieutenant of *Ireland*, he subdued the most Inaccessible parts of that Country, repaired the *English* Fortresses, and erected others to bridle the Rebels

there, and obtained the Reputation of an excellent Statesman, as well as a consummate General. His great Misfortune is said to have been, that he knew not how to stoop and fawn on Persons, for whom he had no Esteem; or to disguise his Sentiments and temporize upon occasion; and in short that he was a better Soldier than a Courtier. It is no wonder, therefore that the Lords his Enemies, charge him with intollerable Pride and Arrogance, as they would have done any other Foreigner that evidently out-shined them, and whose Loyalty and Integrity was a Reproach to their Conduct.

1307.
35 Edw. II.

Proceedings against HUGH D'SPENCER the Father, and
HUGH D'SPENCER the Son, for High Treason, &c.
Anno 1320. 14 EDW. II. & seq.

1320.
14 Edw. II.
Spencer, Father and Son.The Charge
against the
Son.

THE first Charge we met with against *Hugh D'Spencer* the Son, is in the Year 1320, which amounted to no more than this, (*Viz.*) That he surrounded the Throne with his Creatures, and would not suffer any of the Nobility to have Access to the King in his Absence; and when he was present, gave Answers to their Addresses himself, not suffering his Majesty to speak to, or entertain any Correspondence with them: On pretence whereof, the Lord *Mortimer* and other disaffected Barons, without any Colour of Law, on the third of *May* 1321, in a hostile manner, entred into the Lands of *Hugh D'Spencer* the younger in *Wales*, killed some of his Servants and Tenants, others they kept in Prison, and some they suffered to be ransomed; they also burnt, pulled down, and destroyed, or defaced all his Houses and Castles, and took, and carried away Goods of all sorts whatsoever they found, either on his Lands, or in his Houses and Castles, which amounted to a very great Value; from thence they rambled up and down the Countries, and went into *Glostershire*, *Wiltshire*, *Hampshire*, and all Countries where *Hugh* the Father had any Lands, and begun their Work on *Barnaby Day* (or eleventh of *June*) at his Manor of *Falstern* in *Wiltshire*; and in all his other Lands, Houses and Castles, wherever they came they behaved themselves just as they had done to those of his Son.

These Lords afterwards entered into a Conspiracy with the Earl of *Lancaster*, and many Barons more signing an Indenture, wherein they mutually covenanted to make War on *Hugh D'Spencer* the Father, and *Hugh* the Son, and maintain it with all their Power; and being summoned to Parliament, they marched to *London* with an armed Force, and compelled the King to pass an Act for the Banishment of the *Spencers*. In the Preamble whereof it is recited, That they did all this for the Honour of God and the Holy Church, and the Profit of the King and his Realm, for that the said *Spencers* had usurped Royal Power over the King and his Ministers, and taken the Government of the Kingdom into their Hands.

1320.
14 Edw. II.

I. They charge *Hugh* the Son, with engaging *Sir John Gifford* and others, to sign an Article containing the following Propositions, among others, *viz.*

That Homage and the Oath of Allegiance is more due by reason of the Crown, than of the Person of the King, and is more tied or fixed to the Crown, than to the Person; and this appears for that before the State of the Crown descends, there is no Allegiance due to the Person expectant, wherefore if the King does not govern himself by Reason according to the Right (or Law) of the Crown, his Lieges are then bound by their Oath taken to the Crown, to remove the King,
and

1320.

4 Edw. II.

and to take care of the State of the Crown, by a due Administration, for otherwise that Oath could not be observed. Now if it be demanded, How the King is to be dealt with, whether by Suit of Law, or by Rigour? Not by the former, for no Man can be redressed that way, because he can have no Judge, unless it be the King [Himself], in which Case if the King will not be guided according to reason, he then will be obstinate in his Error: Wherefore he ought to keep his Oath, and when the King will not relieve him, is outrageous, and will do that which is injurious to his People in general, and withal is prejudicial to the Crown, then it is time for them to proceed against him with Rigour, for He is bound by Oath to govern his People and his Lieges, and they are bound to Govern in Aid of Him, in case of his Default.

2. They charge both of them with compelling the King to give such Answers as they dictated, and alienating the Hearts of the Nobility and People from the King.

3. That they would not suffer the Peers to have any Access to or Correspondence with the King, assuming Royal Power.

4. That they turned out able Ministers and Officers, and preferred their own Creatures unfit for their Posts, who caused corrupt Juries to be impanelled, and the Earl of Hereford, and other Peers to be indicted by them, in order to get their Lands.

5. That they advised the King to make War in their Quarrel.

6. That they arbitrarily and illegally put *Llewellyn* Prince of Wales to Death after his Submission.

For which, and other Articles too long to enumerate here, they banish both Father and Son, and confiscate their Effects.

Then the Barons compelled the King to pass an Act, to Pardon and Indemnify them for the Outrages they had committed in the Lands of the *Spencers* and elsewhere, and for taking up Arms, &c.

At a Parliament holden at *York*, three Weeks after *Easter*, Anno 1322, an Act passed for reversing the Sentence against *Hugh Spencer* the Father, and *Hugh* the Son: Wherein it is recited, That while *Hugh* the Son, was in his Majesty's Service as his Chamberlain, the Lords *Martimers*, Uncle and Nephew, with divers Barons there named, made a Confederacy by Oath and Writing to pursue and destroy him: By Virtue of which,

they with their Retinue consisting of eight hundred Men at Arms, five hundred Hoblers, (or Light-Horse) and ten thousand Foot came to *Newport* in *Wales*, and from thence marched forwards to take his Towns and Castles, and entering upon his Lands, they killed part of his Tenants or People, some of which were Knights, therein named, besides others of the same Degree who were made Prisoners, and they took and carried away his Goods and Chattels. Then it proceeds to recount every thing in particular, as how much Provisions of all sorts, what Horses, Armour and other things were lost; as also how many Oxen, Cows, and Sheep (to a vast Quantity) they then plundered and carried away; together with the loss of his Charters, Writings and ready Money; as also the burning his Granges, destroying his Crop upon the Ground, seizing of his Rents and Debts, and disparting his Parks; all which Damages (as appears by casting up the Particulars therein mentioned) amount to the Sum of near twenty thousand Pounds.

Then it further recites, that they, the said Earls and Barons, with all their Force and Power came to the Parliament at *Westminster*, and there upon false Accusations, without calling the said *Hugh* to answer, against all manner of Right and Reason, and against the Law of the Land, erroneously awarded him to be Dishonoured and Exiled *England*: Whereof he prays the King as he is bound by Right of his Crown, and by the Oath he made at his Coronation, to maintain all People in their Rights, that he would please to cause to be brought before him, the Process of the Award made against him, that it may be examined, and that the said *Hugh* may be admitted to shew the Errors in it, and if there shall be any found, he would please to repeal and redress them, with a Protestation that he will be hereafter ready to answer any Complaint according to Reason.

And then it proceeds to shew the Errors of the said Process: As 1, That the Great Men who pursued and destroyed him, prayed Pardon of the King for all those things which might be judged Felonies and Trespasses in that Pursuit which they made by their own Authority, by which they wrongfully made themselves Judges of him, where they could not, nor ought to be Judges.

2. Also Error, in that the said *Hugh* was not called into Court to answer where the Award was made; also Error, in

1320.

14 Edw. II.

1230.
14 Edw. H.

in that the Sentence was given without the Assent of the Prelates who were Peers in Parliament.

3. *Item* Error, in that there was no Record of their Pursuit, or the Causes contained in the Award; also Error, in that the Award was made against the Form of the Great Charter, wherein is contained, *That no Man shall be fore-judged, nor in other manner destroyed, unless by Judgment of his Peers, or by the Law of the Land.* Then he requests the King to take notice, that the great Men were summoned to come duly to the Parliament, yet did not, but came with Horse and Arms, and all their Force: After which, he, the said *Hugh*, came in, and surrendered himself Prisoner to the King, praying to be received into his Protection, to prosecute his Complaint, and that Right might be done in these Matters: and the King received him as he ought to do, and caused his Petition to be carried to the Archbishop of *Canterbury*, the Bishops and other Prelates and Clergy of the Province of *Canterbury*, then being in a provincial Council at *London*, charging them by the Faith they owed to him, to advise about the Petition, and let him know their Thoughts concerning it. And when they had well advised thereupon, they answered, that it seemed to them that the Process and the Award of the Exile, and Disinheritance of *Hugh* the Son and Father, were erroneous and wrongfully made; wherefore they agreed and unanimously assented as Peers of the Land, and prayed as Peers *Spiritual*, that the Award which was made wickedly and wrongfully against God, and all manner of Right, might be by the King repealed and annulled for ever. And they said further, that they nor any of them, ever assented to the said Award, but that every one of them at the time when the Award was made, did make Protestation in Writing, that they could not, or would not assent to it for several Reasons. And the Earl of *Kent* the King's Brother, the Earls of *Richmond*, *Pembroke*, and *Arundel*, with the Prelates, being before the King, said the Award was wrongful, and against Law and Right, and prayed him, as the Prelates had done before, to null, and make void the Award; and the said Earls affirmed, that for fear of the Force which the Great Men suddenly brought to the Parliament in order to make the Award, which was to them unknown and unexpected, they gave their Assent to it, and also advised the King to suffer it to pass;

for which Offence and Mistake they prayed his Pardon.

In the same Record we find a like Petition delivered in Parliament by *Hugh Spencer*, the Father, being to the same effect with that of his Son's; setting forth, That the same Great Men before named, and other Adherents and Confederates, with Force and Arms, on the Day of *St Barnaby*, in the fourteenth Year of the King, came to his Manner of *Fafern* in *Wiltshire*, and twelve others in that Shire, and other Countries, viz. six in the County of *Gloucester*, four in *Dorsetshire*, five in *Hampshire*, two in *Berkshire*, six in *Oxfordshire*, three in *Buckinghamshire*, four in *Surrey*, one in *Cambridgeshire*, two in *Huntingtonshire*, five in *Leicestershire*, one in *Yorkshire*, one in *Lincolnshire*, five in *Cheshire*, and five in *Warwickshire*, in all sixty three Mannors there named; which shews the vast Estates the two Lords *Dispensers* had in those Days. But as for the Destruction and Havock the Barons made upon the Lands of *Hugh* the Father, they were much to the same effect, with those that were done to the Son, only greater; as the driving away of twenty eight thousand Sheep, twenty two thousand Oxen, Heifers and Cows, besides the spoiling of two Crops, one in the Barn, and the other upon the Ground, the taking away above six hundred Horses and Mares, besides a vast quantity of Provisions of all sorts, and Armour for two hundred Men, and the destruction of his Houses and Goods; to the value of above thirty thousand Pounds; as also the taking away out of the King's Castle thirty six Sacks of Wool, a Chalice and Cross of Gold, divers rich Vestments and other Ornaments belonging to his Chappel, besides other Goods and Furniture; to the Damage of five thousand Pounds more.

Then the like Errors are assigned as in the former Process or Award with a like Recital of *Hugh* the Father's rendering himself Prisoner to the King, and being also received into his Protection.

Then follows the King's Judgment in this Form; — And we afterwards at our Parliament held at *York* three Weeks after *Easter*, in the fifteenth Year of our Reign, caused to come before us the Process of the Award, as also the Petition of the said *Hugh* the Son, and *Hugh* the Father in these Words, To the Honour of God and Holy Church, &c. — The whole Sentence or Award is again repeated in this Record: after which Recital

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cital it proceeds thus; — At which Parliament at *York*, the said *Hugh* the Son, and *Hugh* the Father, being brought before us in Court, prosecuted their Complaints, and prayed us to do them Right; when the said *Hugh* the Son for himself alledged the Errors in the Process, as above said; and also *Hugh* the Father alledged the same Errors, and prayed severally and jointly, that as the Award was made erroneously and wrongfully, against the Laws and Usages of the Realm, and against common Right and Reason, that we would annull and defeat the same Award, and that they (the Complainants) might be remitted and reconciled to our Faith, and to such Estate as they had, and were in before the Award. And here upon hearing the Reasons of the said *Hugh* and *Hugh*, we caused the Process to be examined in full Parliament, in the presence of the Prelates, Earls, Barons, Knights of Counties, and the People that were come by Reason of the Parliament, and we found the same Award was made without calling them to answer, and without the Assent of the Prelates, who are Peers of the Realm in Parliament, and against the Great Charter of the Franchises of *England*, which says, *no Freeman shall be banished or otherways destroyed but by lawful Judgment of his Peers, or the Law of the Land*, and for that they were not called in Court to make Answer, &c. for these Errors, and for that the Causes of the said Award were not duly proved; as also having regard to this, that we caused the Parliament at *Westminster* to be summoned in due manner, and commanded by our Writs the said great Men (who made the said Award) not to make Assemblies and Alliances, or come with armed Men, yet they came with all their Force to that Parliament, notwithstanding our Command; and when they came to *London* in that manner they held their Councils and Assemblies without coming to us at *Westminster* according to Summons; and when we sent to them to come to the Parliament at *Westminster* as they ought, they would not come nor let us know their mind, nor the Cause of the Award, though we had begun and held the Parliament for fifteen Days and more, and caused to come before us the Prelates, and some Earls and Barons, Knights of Counties and others who came for the Commons of the Realm, and caused it to be published, that those that had Petitions to promote, should de-

live them; and after Proclamation thus made, no Petition was delivered or Complaint made against the said *Hugh*, and *Hugh* until they (the Barons) came as aforesaid; and the Contrivance of the said Award they wholly concealed and kept from us unto the very Hour they came to *Westminster* with Force and Arms, and made their Award, against Reason, as a Thing treated and agreed on amongst themselves, by their own Authority in our Absence, and Encroachment upon the Regal Power, Jurisdiction, and Communsance and Judgment of those Things which belong to our Royal Dignity; wherefore we could not at that time stop the same Award, nor do Right to the said *Hugh* and *Hugh*, as it belonged to us: And further taking notice that those Great Men after the Award made, prayed our Pardon, and Release for confederating themselves by Oath, Writing, or in other manner without our Leave, in pursuing the *Dispensers*, and marching with our Banners and their own Ensigns displayed, and taking and possessing Castles, Towns, Mannors, Lands, Tenements, Goods, and Chattels; and also taking and imprisoning People of our Allegiance and others, some they wounded, and some they killed; and many other things they did in order to destroy the said *Hugh* and *Hugh*, in *England*, *Wales*, and other where, of which some might be called Trespasses, and other Felonies. Also it appeared that those Great Men were Enemies to, and hated them at the time of the Award, and before; wherefore they ought not to be their Judges in their own Prosecution of them, nor have Record upon the Causes of the said Award: and we are bound by Oath at our Coronation and obliged to do Right to all our Subjects, and to redress, and cause to be amended all wrongs done to them when we are required; according to the Great Charter by which *we are not to sell or delay Right and Justice to any one*; and at the pressing Advice and Request of the Prelates given us for the safety of our Soul, and to avoid Danger, and to take away an evil Example for the time to come, of such Undertakings and Judgments in the like Case against Reason: Wherefore we seeing and knowing the said Process and Award made in the manner aforesaid, to be as well to the Prejudice of us, the Blemishment, (or Hurt) of our Crown and Royal Dignity against us and our Heirs, as against the said *Hugh* and

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and *Hugh*, and for other reasonable Causes: We by our Royal Power, in a full Parliament at York, by the Advice and Assent of the Prelates, Earls and Barons, Knights of Counties, the Commons of the Realm, and others, being at our Parliament at York, do wholly annul and defeat the said Award of the Exile and Disinheritance of the said *Hugh* and *Hugh*, and all things in the Award, and do fully remit and reconcile the said *Hugh* the Son, and *Hugh* the Father to our Faith and Peace, and to the Estate they had, and were in, before the making that Award in all Points. And we adjudge, that they have again Seisin of their Lands and Tenements, Goods and Chattels, &c. and we Will and Command that wherever this said Award is enrolled in any of our Courts, it be cancelled and annulled for ever.

Some few Days after, *Hugh Spencer* the Father was made Earl of *Winchester*, and had the Castle and Manor of *Donnington* conferred on him.

In the Year 1326, the Queen and her Gallant *Mortimer* being in the Low Countries, entred into a Conspiracy with the disaffected Barons against the King, and embarking with a Body of *Flemish* Troops, landed at *Harwich* on the twenty second of September, and were joined by most of the great Men in the Kingdom; whereupon the King, with the two *Spencers*, fled; the elder *Spencer* was taken afterwards at *Bristol*, and executed as a Traytor, by the Queen's Command, without any manner of Tryal. The younger *Spencer* also was taken some few Days afterwards, and hanged on a Gallows fifty Foot high, and afterwards embowelled and quartered, without being allowed a Tryal.

Hugh Spencer the Son, was one of those Gentlemen made Choice of by the disaffected Barons to remain about the King, and to controll, and govern his Councils; and as he was esteemed the greatest Enemy to Monarchy, they thought fit to constitute him High Chamberlain, that he might be in continual Attendance at Court. It is evident no Man appeared more averse to kingly Government than this Gentleman, from the first Article of the Charge preferred against him in Parliament; where he is made to declare, That Homage and the Oath of Allegiance, is more due by Reason of the Crown, than of the Person of the King; wherefore, says he, if the King doth not govern himself by Reason, and according to the Right of the

Crown, his Lieges (meaning the Barons) are then bound by their Oath, to remove the King, and take the Administration upon them, and ought to proceed against the King with Rigour: by which is usually understood, that they may sit in Judgment upon him, and pass what Sentence on him they see fit.

They were such Principles as these that recommended this Gentleman to the disaffected Lords, and yet they had the Confidence to make them one Article of the Charge against him. There is no doubt to be made, but that it was the original Design of the younger *Spencer*, and the rest of the disaffected Barons, to alter the Constitution, by changing the Monarchy into an Aristocracy. Their Aim was Power, to make themselves Sovereigns, and the King and the rest of the People their Subjects. And when the Barons saw that their Friend *Spencer* had over-reached them, and instead of allowing them a Share in the new projected Form of Government, had reconciled himself to the King, and was become his Prime Minister, they were enraged against him to the last Degree, destroyed the Estates of both Father and Son by a lawless Force, and by the like Force compelled the King to banish them; which occasioned the Destruction of many of the Barons, their Enemies, and at length of the *Spencers*, and of the King himself, as will appear in the future Proceedings.

There was a good Intelligence between the Queen and the younger *Spencer* a great while; but her Passion for *Mortimer*, whose Cause she espoused, set them at Variance, and induced her to unite her Interest with the Barons to ruin the Minister, whose greatest Crime seems to have been, that he would not suffer the rest of the great Men to share the Administration with him.

As to the Character of the *Spencers*, the younger was a Minister of the Barons own chusing, and on whose Conduct they seemed to rely more than any one they had put about the King, and therefore one would imagine he was tolerably qualified for the Post they conferred on him: and the elder *Spencer*, our Historians agree, was a Person of great Integrity, wise in Council, and stout in Arms; and where could a Prince meet with a Person better qualified, or fitter to be trusted in the Administration,

The two
Spencers executed by the
Male contents with-
out Tryal.

Their His-
tory.

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Proceedings against THOMAS PLANTAGENET, Earl of Lancaster, and other Noblemen, for High Treason. Anno 1322. 16 EDW. II.

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Earl of Lancaster.

The Charge against him.

THE Charge against the Earl consists of several Species of Treason, besides Offences of a lower Nature. He is accused of levying War, of a Conspiracy with other domestick Traytors to depose the King, and of confederating with the Scots, the King's Enemies, to the same End; and by way of Aggravation, the Murders, Robberies and Burnings, the Consequence of his Rebellion, are thrown in; nor is the Plundering of Gaveston's Estate forgotten: His Rebellion and levying War were held to be so notorious, as to need no Proof; for he was taken in an Engagement with the King's Forces near Burrough-bridge; and his Confederacy with the Scots was no less evident, from the Indenture found in the Earl of Hereford's Pocket, who was killed in the Action at Burrough-bridge.

The Earl of Lancaster was arraigned at Pontefract Castle, before the Earls of Kent, Richmond, Pembroke, Surrey, Arundel, Athol, Angus, and other great Men, the King himself being present, according to our Historians; but whether the King or the Prisoner were present, certain it is, the Earl of Lancaster was not suffered to make a Defence, but was condemned unheard, upon the Notoriety of the Facts, as was usual in those Days. And altho' the Sentence in High Treason of drawing, hanging, quartering and beheading passed upon him, it was all pardoned but the beheading, which was executed on a little Hill without the Gates of Pontefract, on the twenty first of March, 1322; and his Head and Body were both buried together in the Convent there, by the Priors and Monks of Pontefract.

There were nine Noblemen, and a great many Persons of distinction besides condemned in the like summary Way, who were taken in Rebellion with the Earl; some of whom were executed, but the King thought fit to give the two Lords Mortimers, the Uncle and Nephew, their Lives: however, they were committed

to the Tower, where the elder Mortimer died, but the younger made his Escape into France afterwards, and became the principal Instrument in deposing King Edw. II. of which an Account will be given hereafter.

The Judgment against the Earl of Lancaster was reversed by Parliament 2 Edward III. during the younger Mortimer's Administration, who was an Accomplice with the Earl in this Rebellion, and consequently interested in the Reversal of this Sentence: the two principal Reasons given for the Reversal were, 1. That the Earl was not heard in his Defence; and 2. That he was not tried by his Peers, according to the Law of the Land.

As to the first, If we suppose the Earl present at his Arraignment, and suffered to make his Defence; what Defence could a Nobleman taken in open and actual Rebellion have made, unless he had avowed the Principles his Party went upon; namely, That the King had forfeited his Right by Male-Administration, of which the Barons and great Men were Judges: But this was a Plea not to be made by a Man in his Circumstances; such a Defence would have been looked upon as another Article of High Treason by a victorious Prince.

But as to his not being condemned by his Peers, this Motive for the Reversal of his Attainder seems to have been false in Fact, for his Peers sat upon him. I am inclined to believe therefore, that it is only meant, that the Case was not legally brought before the Peers, because no Bill of Indictment was found against him: but surely this could not have been very difficult to have procured when the Royalists were uppermost, if we consider, that the Earl was from the Beginning of this Reign the Chief of that Faction, which compelled the King to resign his Authority to some of their Number, and several times had Recourse to Arms, in order to subdue their Sovereign: But farther, this

M

Nobleman

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He is condemned.

Other Noblemen condemned.

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Nobleman and his Accomplices could not, with a good grace object to these summary Proceedings, after they had headed *Garnesha* his Majesty's Prime Minister, not only without affording him a legal Tryal, but without any Colour of Authority. But whatsoever the Earl's Offences were, it seems he was in a manner adored by the Populace after his Death: The Monks of *Pontefract*, where he was buried, got a great deal of Money from weak People who came in Pilgrimage to his Tomb, on their giving out that Miracles were wrought there; inasmuch that the King found himself obliged to order the Church Doors to be shut up, being well assured, that if the Earl's Friends could so far influence the People to make them believe he was a Saint, it would be no hard Matter to persuade them that their King who had put him to Death, was a Tyrant and Oppressor; and on this Account, or thro' Tenderness for the Loss of so near a Relation, 'tis said the King afterwards lamented his Execution, breaking out into these or the like Expressions, on his being importuned to pardon a notorious Criminal, 'How can you press me thus to save so vile a Wretch, when none of you moved your Lips in Behalf of my near Relation the Earl of Lan-

caster; who, if he had lived, might have done me and his Country Service? But such Expressions as these are frequently made for Princes, and there seems all the Reason in the World to believe that this was so, because *Lancaster* was taken in full March to join the *Scots*, and to endeavour to usurp that very Prince's Throne who is supposed to have said it, and therefore he could not have promised himself any great Services, if he had been living.

Great Application was made by the Queen and *Mortimer* to the Court of *Rome*, 1 Ed. III. to get the Earl of *Lancaster* canonized for a Saint, which they apprehended would contribute much to the Credit of their Party; and though they could not obtain it then, it appears he was canonized afterwards, at the Instance of *Hen. IV.* the first King of the House of *Lancaster*. For this *Thomas Plantagenet* Earl of *Lancaster*, was the eldest Son of *Edmund* Earl of *Lancaster*, second Son of *Hen. III.* from whom the Kings of the House of *Lancaster* claimed, pretending that *Edmund*, commonly called *Crouchback*, was the eldest Son of *Hen. III.* and elder Brother to *Ed. II.* though there was in reality no Colour for this Assertion.

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Proceedings against Sir ANDREW DE HARCLAY, Earl of Carlisle, for High Treason. Anno 1323. 17 ED. II.

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Harclay.

The Charge.

His Censure.

His History.

THE Treason this Earl was charged with, was his adhering to, and corresponding with the *Scots*, the King's Enemies.

He was tryed by his Peers, and convicted at *London* according to the generality of our Historians, being first degraded of his Knighthood, his gilt Spurs cut off with a Hatchet, and his Military Belt, or Girdle taken off. The usual Sentence in high Treason being passed upon him, and executed in all its Circumstances, his Head was set up on *London Bridge*, and his Quarters sent to four of the Principal Cities of *England*, to be set up there.

This Gentleman is an eminent Instance of the Fickleness of Fortune; he had with- in less than a Year before he was brought to

this tragical end, done the most signal Service to the King and his Ministers that ever any Gentleman performed, for he intercepted the disaffected Barons in their March to join the *Scots*, defeated them, and made the Earl of *Lancaster*, and the Heads of that Party Prisoners, whereby he prevented the Ruin of the King and Royal Family; which his Majesty was so sensible of, that he created Sir *Andrew* Earl of *Carlisle*, and granted him an Estate in Lands suitable to the Honour he had conferred upon him. But whether he did not think himself rewarded according to his Merit, or aspired to have a Share in the Administration which was committed solely to the Conduct of the *Spencers*: or whatever was the Cause of his Discontent, we find him no less disaffected

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affected in a few Months than the Barons he had contributed to subdue; and entering into a Confederacy with the Scots against his own Country, of which the King having Intelligence, sent down Sir *Anthony Lucy* with a select Party to *Carlisle*, who surprised the Earl with the Treaty in his Pocket; and brought him up to *London*: a piece of Service that few Gentlemen could have performed so effectually as Sir *Anthony*, who had hitherto expressed an Inviolable Friendship for this Nobleman, the Earl having the Command of the English Forces on the Frontiers, and might easily have secured himself or retired into *Scotland*, if he had entertained any Suspicion of the Erand his Friend Sir *Anthony* came down upon; but it never entered into his Heart that a Man of his Quality could be guilty of such Baseness: the King and the *Spencers* his Ministers however thought fit to reward this piece of Treachery by a grant of part of the Earl's Lands to Sir *Anthony*, which we meet with in *Rymer's Fadera* being of the following Tenor.

Rex vicesimo Sexto Julii, pro bono Servitio quod Antonius de Lucy habebat, impendit ultra Terras & Tenementa quae nuper Rex dedit eidem Antonio in Feodo habenda. Dedit & Concessit pro se & heredibus suis eidem Antonio Manerium de Menburn Regis cum Pertinentiis in Comitatu Westmerlandiae, & Manerium de Grendon cum Pertinentiis in Comitatu Northumbriae.

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Quae quondam fuerunt Rogeri de Clifford nuper Inimici & Rebelis Regis; & quae per Foris Facturam ejusdem in Manu Regis existentia postmodum Rex dedit Andree de Hancha, & quae per Foris Facturam ejusdem Andree in manu Regis tunc extiterunt: Habenda & Tenenda eidem Andree, &c.

And whether the Earl had a Legal Tryal by his Peers at last is rendred doubtful by the Chronicle of *Lanercost* cited by *Tyrrel*; which says, the Earl was tryed and condemned at *Carlisle* by Sir *Jessery Scrope*, Lord Chief Justice; and that he confessed the Conspiracy with the Scots.

Proceedings against EDMUND FITZ ALAN, Earl of Arundel, for High Treason. Anno 1326. 20 ED. II.

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Fitz Alan.
The Charge.

THE Treason or Offence of this Nobleman in reality was his adhering to his lawful King against the Rebellious Queen, and her Adulterer *Mortimer* the Younger; but the Crimes they were pleased to lay to his Charge, were his marrying his Son and Heir to the Daughter of *Hugh Spencer*, being Privy to his Counsels, and prejudicing the King against the Queen: he is also charged with procuring the Death of the Earl of *Lancaster*, and Earl of *Pembroke*, which last No-

bleman was supposed to be poisoned in *France*.

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The Earl being taken by the Queen at *Bristol* with the elder *Spencer*, was arraigned in a Summary way before the Infant Prince *Edward*, Lord *Mortimer*, and the rest of the Noblemen of the Queen's Party, and condemned and executed as a Traytor, not only without a legal Tryal, but by Men who had no manner of Commission or Authority from the King to call him to an Account.

Executed by
an Arbitrary
Sentence.

Proceedings

Proceedings in Parliament against King EDWARD II.
for High Treason against his Subjects. Anno 1327.
2 EDW. III.

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King Ed. II

The Charge.

THE Charge exhibited against the King was, That he had suffered himself to be goverend by evil Counsellors, to the destruction both of Church and State; not regarding the Addresses of his Subjects, who had represented the ill Consequences of following such pernicious Advice: That he busied himself in Employments unbecoming his Station: That by his ill Conduct he had lost Scotland with part of Ireland and Guienne: That he had put to death, banished, imprisoned, and disinherited several English Peers: That he regarded nothing but his own Profit, and enriching his evil Ministers: And lastly, that he had abandoned (or abdicated) the Kingdom, and was become incorrigible; for which Reasons they declared he had forfeited his Crown.

The Queen pretending to be extremely concerned when she heard the King was deposed, she wept and lamented the Misfortune very movingly, and indeed so much over-acted her part, that the Prince, imagining she was in earnest, declared he would never accept the Crown, unless his Father voluntarily resigned it: whereupon the Parliament sent the Bishops of Lincoln and Hereford to Kenneleworth to the King, to threaten him that if he made any Difficulty in resigning the Crown to his Son, they would settle it on another Family; and soon after deputed twelve Commissioners to accept his Resignation, viz. three Bishops, three Earls, two Barons, two Abbots, and two of the Judges. Upon their arrival at Kenneleworth, the King came to them in a mourning Habit, and no sooner saw them, but he fell into a Swoon; when he was a little recovered, the Bishop of Hereford opened the Matter they came about, requiring the King's immediate Answer; whereupon the King said that he submitted to his Misfortunes with the greater Patience, as his Misconduct had been the occasion of them. He could not but be extremely afflicted that his People had entertained such an Aversion to him, that they would no longer

suffer him to reign over them, but it was some Satisfaction that in these melancholly Circumstances, they had made choice of his Son to succeed him, and he gratefully acknowledged his Obligations to them on that account: Then, as he was directed, he surrendered the Kingdom into their Hands, by the delivery of the Crown and Scepter for the use of his Son Edward. After which Judge Trussel as Procurator, or Representative of all the People of England, said, *I William Trussel, in the Name of all the Men of the Land of England, and of all the Parliament, Procurator, resign to thee Edward, the Homage that was heretofore made to thee; and from this time forwards I defy thee, and deprive thee of all Regal Power; and I shall never be Attendant on thee as King after this Time.* Then Sir Thomas Blunt Steward of the Household, broke his Staff, and resigned his Office, declaring that the King's Family were discharged from his Service.

The King did not long survive his Imprisonment. He was privately murdered the latter end of September, or the beginning of October, after he was deposed.

To understand the reason of these violent Proceedings against King Edward II. it will be necessary to take a short View of his Reign and Character.

This Prince was about twenty three Years of Age at his Accession; he had been Generalissimo and Guardian of the Kingdom in the Reign of his Father, and came to the Crown with universal Applause: Such were his Talents apprehended to be at this time, that the People were in Expectations of abundance of Happiness under his Government. But upon his recalling his Friend Gaveston from Banishment, all his fine Accomplishments seem to have vanished; the generality of our Historians from this time, do not allow him to have a grain of Religion, Virtue, or Common-Sense.

But if Gaveston was possessed of those fine Accomplishments generally ascribed

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to him, and the Prince had contracted an intimate Friendship with him from his Infancy, it is no great Argument of his want of Capacity or good Nature, that he desired his return to Court; but that he should suffer himself to be governed by this Foreigner, slight the *English* Nobility, and exclude them from his Councils, this must be admitted to be extremely impolitick, if not unjust. We do not meet with many Acts of Tyranny or Oppression indeed while *Goveston* sat at the Helm, but a very little Reflection would have discovered, that the *English* never can with Patience see their King under the Influence of any one Man, unless they some way or other find their Account in it. If the Grandees are not kept in good Humour by Places or Pensions, they will infallibly over-turn the Minister, and perhaps his Master. Interest, it has frequently been observed, will rebel against Principle, and if the Nobility and Gentry do not participate of the Royal Bounty, they will venture at an Insurrection to destroy the Person that engrosses it, let his Administration be ever so equitable; as was the Case here, never were fewer Taxes raised, and I don't remember in all their Addresses and Memorials, that they give a single Instance of any Injustice done them, unless their not being admitted to Places is to be accounted such. But to proceed, when the Barons had compelled the King to delegate his Power to them, and cut off *Goveston's* Head without any Colour of Law, they were not satisfy'd: and if the *French* King, whose Daughter *Edward* had married, and the Pope had not interposed, nothing less would have satisfied them, in Appearance, but the continuing the Sovereign Power in their Hands. And though they were induced to permit the King to resume part of his Prerogations for a little time; he no sooner made the younger *Spencer* his Prime Minister (whom they themselves had imposed on him for his Chamberlain) but they became Malecontents again, entred into a fresh Conspiracy, and invited the *Scots* to invade the Kingdom. And when the King was so fortunate to surprize the Heads of the Party, and defeat their Projects; his executing the Earl of *Lancaster*, who was taken in actual Rebellion with several other Lords of that Faction, and prosecuting some Bishops, their Adherents, were represented as such Instances of Cruelty, that the whole Nation, both Clergy and Laity, were spirited up against

him. Nor did the Queen's Intrigue with *Mortimer* a little contribute to his ruin, for *Mortimer* being one of the Chiefs of the *Lancastrian* Faction, the Queen in regard to him, espoused that Party, and endeavoured the Destruction of the King her Husband, with more Zeal than any of his deluded Subjects.

Mortimer probably made his Escape out of the Tower, and was carried over to *France* by her Management; as it was by a Stratagem of hers, that she procured the King's Consent to her going after him into *France*, and suffering the Prince to follow her.

The *French* King it seems had invaded the Provinces of *Guienne* and *Gascony*, then part of the King of *England's* Dominions, on pretence that King *Edward* neglected to do Justice to some of his Vassals; and as the King of *England* was on ill Terms both with his Clergy and Barons, and could raise neither Money or Troops to oppose the *French*, the deputing the Queen to negotiate the Matter, was represented as the only Expedient that could prevent the loss of *Guienne*. The Queen thereupon being sent over to treat with her Brother, for the Restoration of the Places he had taken, informed her Husband King *Edward*, that if he would transfer his Right in the Dutchy of *Guienne*, to his Son *Edward*, and send him over to do Homage to her Brother for it; he was willing to relinquish all his Acquisitions in that Province, and Peace might be restored between the two Crowns. King *Edward* upon very little consideration, agreed to this, and assigned that Dutchy to Prince *Edward*, sending him over to *France* to do his Homage, expecting that when the Ceremony was over, the Queen and her Son would have returned to *England*. But his Eyes were soon after opened, and he became sensible, when it was too late, of the Artifices and Treachery of his Queen, and the *French* Court. He was informed that the *Lancastrian* Party, who had been banished or fled from *England*, resorted to the Queen at *Paris*; that *Mortimer* the Chief of them, lived with Her openly as her Gallant, and that some Plot was forming against him, which it was supposed King *Charles* was a Party to. The King hereupon wrote to the Queen and the Prince, to return home in the most pressing Terms; but she made abundance of excuses for delaying her Departure, and King *Charles* in her behalf, represented to King *Edward*, that she could not with any Safety or Honour

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Honour return to *England*, unless she was secured against the Insolence of the younger *Spencer*. *Edward* in Answer to this, wrote to the King of *France*, assuring him that the Queen should want no Protection or Encouragement, if she returned to *England*; declared that he relied upon his Faith and Honour for their return, and did not scruple to mention the infamous Commerce he suspected between the Queen and *Mortimer*, which he hoped her Brother would give no Countenance to. The King also wrote to the Pope, desiring him to use his Interest at the *French* Court, that his Wife and Son might be restored him; and after a great deal of Importunity, *Charles*, either influenced by Presents made him by the *Spencers*, or ashamed of the Scandalous Commerce between *Mortimer* and his Sister, expelled them the Court, and prohibited all his Subjects to give them any Assistance. But this, Historians observe, he delayed to do, till the Earl of *Hainault* and *Holland*, openly espoused the Queen's Interest, and invited her into his Territories; and when he knew there was already such a Conspiracy formed in *England* against King *Edward*, as would in all Probability ruin him.

As soon as the Queen was arrived at *Hainault*, in pursuance of her Agreement with that Earl, she contracted the Prince her Son, then under fourteen Years of Age, to his Daughter *Phillipa*; in consideration whereof, he agreed to assist her with three thousand Men to make a Descent upon *England*, which were to be commanded by his Brother *John* of *Hainault*. With these, and the *English* Malecontents, she embarked at *Dort* in *Holland*, and landed at *Orewell* in *Sussex*, or as others relate at *Harwich* in *Essex*, on the 22d of *September* 1326. The Queen, on her landing, was immediately joined by *Edmund* Earl of *Kent*, the King's Brother, by *Henry* of *Lancaster*, Brother of the deceased Earl; the Bishops of *Hereford*, *Lincoln*, and *Ely*; the Earls of *Pembroke* and *Leicester*, and a great many other Prelates, Noblemen, and Persons of Distinction, besides a Multitude of inferiour People, out of which was soon formed a considerable Army.

The King receiving advice that the Queen was landed with a Body of *Dutch* Troops, applied himself to the City of *London*, to assist him in this Exigence, but met with a very cold Answer; and finding both the Clergy, and the Nobility

in the Interest of his Enemies, he retired towards *Wales* with the two *Spencers*, the Chancellor *Baldock*, and some other Courtiers, having first published a Proclamation against the Queen, and her Adherents, and offered a Reward of one thousand Pounds, to any one who should bring him the Head of *Mortimer*.

The Queen's Army however increased every Day, and being arrived at *Wallingford*, she published a Memorial, dated the fifteenth of *October*, in the Name of herself, her Son Prince *Edward*, and *Edmund* Earl of *Kent*, declaring that they took up Arms to rescue both the Church and State from the Tyranny of the *Spencers*, who were to be looked upon as Enemies to the Kingdom, abusing the Royal Authority to the Destruction of the Subject, with a great deal more of the like import.

In the mean time, the King being arrived at *Bristol*, left the Elder *Spencer* there, in hopes he would have been able to have defended that City, till he should be relieved, or could make Terms with the Enemy. From *Bristol* the King marched with the younger *Spencer*, and *Baldock* the Chancellor into *Wales*, where, though the People seemed well affected to him, he found it impossible to raise a Force sufficient to make Head against the Queen. He embarked therefore for *Ireland*, but was driven back upon the Coast by a Storm, and forced to conceal himself in the Abby of *Neath*.

The Queen in the mean time having marched quite cross *England*, invested the City of *Bristol*, which soon surrendered, and the elder *Spencer* the Governor, was immediately hanged up without a Trial, though he was then near ninety Years of Age. The City of *London* declared for the Queen about the same time, styling her THEIR DELIVERER. And the Bishop of *Exeter*, whom the King had entrusted with the Care of that Metropolis, endeavouring to preserve it for his Master, was over-powered and had his Head cut off; after which, the Citizens seized on the Tower of *London*, set the Prisoners at their Liberty, as the Queen did in all other Prisons of the Kingdom; and hearing that the King was embarked for *Ireland*, she and her Friends took upon them to constitute Prince *Edward* Guardian of the Kingdom, the Bishop of *Norwich* Chancellor, and the Bishop of *Winchester* Treasurer. The Queen afterwards marched with the Army to *Gloucester*, where understanding that the King had

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had been driven back to *Wales*, and lay concealed in that Country, she issued a Proclamation, inviting him to return, and take upon him the Administration of the Government; which it cannot be supposed she was very sincere in, after the Provocations she had given him, in relation to his Bed, as well as his Crown; nor was the King so weak as to discover himself. But a Reward of two thousand Pounds being offered for apprehending the younger *Spencer*; and the Earl of *Lancaster*, the King's most inveterate Enemy, sent into *Wales* with a Body of Troops in search of him, such Diligence was used, that the King could no longer conceal himself. He was taken in the Monastery of *Neath*, together with *Spencer*, Chancellor *Baldock*, *Simon Reading*, and some other of his Domesticks, and from thence carried to *Monmouth-Castle*. Here the Queen sent the Bishop of *Winchester* to him, to demand the Great Seal, which the King seemed to deliver up very willingly; and the Queen no sooner had it in her Hands, but she caused a Parliament to be summoned in the King's Name, whom she confined at the same time in the Castle of *Kenelworth* in *Warwickshire*. *Spencer*, *Baldock*, and *Reading*, were sent under a strong Guard to *Hereford*, where the Earl of *Hereford*, one of *Mortimer's* greatest Enemies had been beheaded just before their Arrival. The Queen whether mov'd by Curiosity or Revenge, came soon after to that City in Person, where she ordered *Spencer* to be hanged upon a Gallows fifty Foot high, and *Reading* upon another ten Foot lower; and as to *Baldock*, who was in Orders, he was delivered up to the Bishop of *Hereford*, who carried him to *London*, but suffered him to be abused so barbarously there by the Mob, that he died of his Bruises in *Newgate*, to which Prison he was committed.

The Queen having triumphed over her Enemies, and indulged her Revenge in their Execution, came to *London* to be present at the Parliament, which she had summoned to meet in *January*. The first thing they fell upon, was the King's Male-Administration, for which they unanimously resolved to depose him, and place his Son Prince *Edward* on the Throne. And proceeded to execute their Resolutions in the manner above related.

The King remaining a Prisoner in *Kenelworth* Castle, the Earl of *Lancaster*, to whose care he was committed, and the Barons in general, began to express their

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discontent at *Mortimer's* taking upon him to govern the Kingdom without their Advice, and seemed ready to enter into Measures to restore their injured Sovereign; to prevent which, his Death was resolved on. But as *Mortimer* was apprehensive the Murder of the King might inflame the People still more against him, and hasten his Destruction, it was proposed to try, if they could not in the first Place, break the old King's Heart with ill Usage. Accordingly he was taken out of the Hands of the Earl of *Lancaster*, and committed to two British Knights, *Gournay* and *Maltravers*, who would stick at nothing their Superiours commanded them. These two having received their Prisoner from the Earl of *Lancaster*, hurried him about from Place to Place in the Night-time, carrying him first to *Corfe Castle*, then to *Bristol*, and at length to *Berkley* Castle in *Gloucestershire*, abusing him upon the Road in a most insolent and barbarous manner. In *Berkley* Castle they used him still worse, believing that the Severities they practised on him, would soon put an end to his Days; but such was his Patience and Resignation under these Misfortunes, and his Constitution still so little broken, that they found nothing but downright Violence would effect their purpose, with which they acquainted their Principals, the Queen and *Mortimer*, who consulting their Confederate *Adam Orleton*, Bishop of *Hereford*, on this occasion; 'tis said, he framed a Latin Letter for them, to *Maltravers* and *Gournay*, which contained the following equivocal Order (*viz.*) *Edwardum occidere nolito timere bonum est*: which might be understood, to be either an Authority to murder the King, or to avoid it, according as it was pointed. The Keepers however understanding the Intention of their Masters, was that they should destroy their Prisoner, immediately set about it, proposing to effect it in such a manner that it should not be discovered he was murdered.

Accordingly they provided themselves with a Pipe, through which they thrust a red Hot Iron up into his Bowels as he lay in Bed, stopping his Mouth at the same time with the Pillows. Which did not prevent, however, his Cries being heard, occasioned by the exquisite Torture they put him to; but no Wound or signs of Violence appearing on the Body, the Murderers had the Assurance to send for some of the Principal Inhabitants of *Bristol* to view it, who were so deceived, that they

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they reported every where, the King died a natural Death, attesting a Certificate to the same Effect. The Suspicions however were so strong, that the King had not fair Play, that the Court themselves were obliged to give out Ordes for the Apprehending of *Maltravers* and *Gournay*, who thought it their safest Course to fly beyond Sea, and not trust to the Protection of those who had employed them; and the young King enquiring into the Matter three Years afterwards, *Gournay* was apprehended at *Burgos* in *Spain*, and being sent to *England*, had his Head cut off in the Passage. It was not thought proper probably to bring him to a Trial, least some Discoveries should have been made, which would have exposed the King's Mother, the Queen Dowager, in her proper Colours, the other of the Assassins, 'tis said died miserably in *Germany*.

This Murder was committed either the latter end of *September*, or the beginning of *October*, 1327. and the Corps was buried privately in the Abby Church of *Gloucester*, where *Edward III.* afterwards erected a handsome Tomb for his Father, with his Effigies in Alabaster. And now Peoples Opinions were so much altered in relation to the old King, that they looked upon him as a Saint, though they were formerly taught to believe him as a Tyrant and Oppressor.

Whatever Errors in Government were the occasion of this Prince's Misfortunes; few Men possibly will approve all the

Measures by which this Revolution was brought about; and Posterity may draw some very useful Inferences from the Transactions of these times.

Princes will observe that a partial Distribution of their Favours is not only unjust, but destructive to themselves: That the Honours and Advantages crowned Heads enjoy beyond the rest of Mankind, are not to be preserved by a slothful unactive Life. Whenever they transfer the Governments of their People to others, they infallibly lose their Esteem and Affections. There is no such thing as separating the Cares from the Glories of a Crown; and indeed the latter are conferred on them but as a reward of the former. Ministers will see that how firm soever they are established in their Masters Favour, it will be dangerous treating their Fellow Subjects with Insolence or Neglect. The People will observe, that notwithstanding all the plausible Pretences of the Grandees for the Publick Good, their own private Interest is usually at bottom, and when they have gained their Point, the People are very little better'd, often in a worse Condition than they were before. The Nobility may learn, that how great soever the Disaffection of the Subject may be, and how well soever they are supported by Foreign Powers, the Vengeance of their injured Sovereign may overtake them before their Plots are ripe, as it did in this Reign the Earl of *Lancaster*, and his Adherents.

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Proceedings in Parliament against EDMUND, Earl of Kent, for High Treason. Anno 1329. 4 EDW. III.

1329.
4 Edw. III.Edmund
Earl of
Kent.The Charge
against him.Condemned
and executed

His History.

THE Treason this Earl was charged with, was a Conspiracy to set the late King *Edward II.* at Liberty, which his Enemies were pleased to interpret as a design to depose the Reigning Prince King *Edward III.* and restore his Father. The Earl 'tis said confessed the Conspiracy, and thereupon Sentence passed on him as a Traytor, but all was pardoned, except the beheading, which was executed at *Winchester*.

Edmund Earl of *Kent*, was the second Son of *Edward I.* by his second Wife,

and consequently Uncle to the Infant King *Edward III.* at this time upon the Throne. He had confederated with the Queen and *Mortimer* against the *Spencers*, and contributed much to the late Revolution, but when, notwithstanding all their specious Pretences, he found that their principal View was to get the Administration of the Government into their Hands, and exclude all the Nobility from having any Share in it, he appeared no less zealous to displace *Mortimer*, than he had been to pull down *Spencer*, and would

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would probably have formed a Party in a little time too strong for the Minister, if he had not been prevented: *Mortimer* therefore resolving to be before-hand with him, by corrupting some about the Earl, and directing others to pretend they were equally disaffected, who insinuated themselves into his Confidence, he was induced to believe that the King his Brother was still alive, and confined in *Corfe Castle*, in which he was confirmed by some Bishops and Noblemen, who represented that it would be an Enterprize of great Honour to himself, as well as of Advantage to the Nation to attempt his Deliverance. The Earl however was not so easy as to rely altogether upon the Advice of others, but employed his own Agents to enquire into the Truth of the Fact, before he gave entire Credit to it. He sent particularly a Monk to *Corfe Castle*, to endeavour to gain admission to the King, who reported at his return, that he had actually seen him at Dinner; for the Governour, who was instructed to carry on the Cheat, gave the Spies whom the Earl employed on this Occasion an Opportunity of seeing some Body at a Distance, attended as the late King used to be in his Confinement; who assured the Earl thereupon, that he might depend upon the King's being alive, and induced him to take some Steps towards the rescuing of him, which the Ministry having full Evidence of, were pleased to construe High Treason, and procured Judgment to be given against the Earl in Parliament accordingly. *Walsingham* relates, that the Earl himself confessed the Facts when he was arraigned before the Parliament on the 16th of *March*, 1328-9. which Confession, if it be genuine, shews the Earl to be extremely credulous, and to have entered upon this undertaking with very little Assurance of being supported: For he confesses that a Monk pretended to

have seen a Spirit, who acquainted him the late King was living, which gave the first occasion to his enquiring into the Matter: That the Lord *Souche* sent Sir *Ingram Barenge* to him to desire his Assistance in his Restoration; that the Archbishop of *York* assured him by Sir *Robert Taunton*, that he would bring five thousand Men into the Field; and that the Bishop of *London* acquainted him by the said *Ingram*, he would promote the design: And though it does not appear that there ever was a single Man raised, or one Consultation among the pretended Conspirators, for effecting the intended Rescue, this mean spirited Parliament, which sat at *Winchester*, were so influenced by *Mortimer*, that they condemned the Earl as a Traytor, and he was brought out to be executed the next Day on a Scaffold in that City, without the King's Knowledge: But so well was this Nobleman beloved by the People, that neither the Executioner, nor any of the Multitude, could be prevailed on by Rewards or Threats to behead him. He remained upon the Scaffold, a mournful Spectacle, till the Evening; when a Criminal who was under Sentence of Condemnation, was prevailed on to take away the Earl's Life to save his own. This Nobleman was but 28 Years of Age when he died. He left two Sons who did not long survive him, and two Daughters, the youngest of which, a celebrate Beauty, afterwards married the Prince of *Wales*, usually stiled *The Black Prince*. This Judgment was reversed by Parliament the very next Year, when *Mortimer's* Villany was brought to light, and animadverted upon as it deserved, as will appear hereafter in the Proceedings against him: But from hence we may observe how easily Parliaments heretofore were corrupted and influenced by the most abandoned Ministers.

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Ed. III.

Proceedings against ADAM D'ORLETON, Bishop of Hereford, for High Treason. Anno. 1330. 5 Ed. III.

1330.

Ed. III.

The First Charge against him.

THE first Charge of High Treason brought against this Bishop was in the Year 1324. before the King and Peers; he was then accused of being

in the Conspiracy with the Earl of *Lancaster*, *Mortimer*, and the rest of the Barons, Enemies and Rebels to the King, and sending Men of Arms to their Assistance.

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5 Ed. III.

To which the Bishop answered, that he was an Ecclesiastick, and ought not to plead to a Charge of this Nature without the leave of the Archbishop, who next to the Pope was his proper Judge; nor without the consent of his Fellow Bishops: Whereupon, at the Instance of the Archbishop, and the rest of the Bishops, he was delivered to the Custody of the Archbishop, till the King should consider of a proper Method to proceed against him.

Some few Days after he was brought before the same Peers (as I apprehend) whereupon the Archbishops of Canterbury, York, and Dublin, with ten other Bishops, carrying their Crosses erected, came and took him from the Bar, prohibiting all Persons to lay hands upon him on pain of Excommunication.

Whereupon the King caused an Inquisition to be taken before his Justices in Herefordshire: Where the Jury found him guilty of all the Articles in the above-said Charge; and it was thereupon adjudged by the said Justices, that he should remain as one Convict in the Custody of the Archbishop of Canterbury; and that his Lands and Tenements, Goods and Chattels should be seized into the King's Hands, and they remained so seized till the first Year of King Edward III. when his Temporalities were restored him again.

The second Charge brought against Adam D'Orleton late Bishop of Hereford, and then of Winchester, was, 1. That he commanded and most sacrilegiously caused violent Hands to be laid on King Edward II. and on the Chancellor Robert Baldock, Bishop of Norwich.

2. That in the Month of November, at the City of Oxford, he falsely and maliciously preached and taught, and more than once asserted, that King Edward II. was a Tyrant.

3. That by false and subtil Insinuations he struck such a Terror into the Queen-

Mother, that she durst not go to the King.

To this Charge the Bishop pleads, that what he had done towards deposing the late King, was done by Authority of the late Queen, and his present Majesty, who came over to rescue the Holy Church and the People of England from the Tyranny and Oppression of the Spencers, who had usurped the Administration of the Government. And as to the Murder of the late King, I presume he denied his being any ways accessory to it, though this does not appear in what we have remaining of his Plea upon Record; neither doth it appear by whom this Charge was brought, or before what Court, or that there were any further Proceedings upon it.

Adam D'Orleton, or Tarleton, was born at Hereford, and having taken the Degree of Doctor of Law, was consecrated Bishop of Hereford, 26 Sept. 1317. He was in the Year 1327 translated to Worcester, and from thence to Winchester, by the Pope in 1333, at the request of the French King, then an Enemy to England; which was the Reason of the King's seizing his Temporalities: He sat Bishop of Winchester eleven Years and upwards, and died on the 18th of July, 1345. being Blind some time before his Death.

He was so well supported by the Pope and the Church, whose Cause he maintained, that they screened him from the Resentments of both his Sovereigns, Edward II. and III. And instead of being punished for the most atrocious Crimes that ever Prelate committed; he was rewarded with one of the best Bishopricks of England by the Pope, in defiance of that victorious Prince King Edward III. who was compelled to restore him the Temporalities, and confirm him in it; and the Bishop went to the Grave in peace at last in a good old Age.

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5 Ed. III.
His Plea.

His History.

The second
Charge a-
gainst him.

Proceedings

Proceedings against THOMAS DE BERKELE, for High Treason. 1330. 5 EDW. III.

Berkele.

1330.
5 Edw. III.

The Charge
against him

His defence.

THE Treason Berkele was charged with, was his suffering or conniving at the Murder of King Edward II. in his Castle of Berkele, where his Majesty was confined by the Command of his Queen and Mortimer.

The answer of Lord Berkele to this Charge was, that at the time of the Death of the said King, he himself lay sick at his Mannor of Bradly, some distance from the said Castle, and knew not what was transacted there, or consented thereto; and he was acquitted of the Fact by a Jury of twelve Knights: However the Murder having been committed in his Castle by Thomas de Gurney, and William de Ocle, to whom he had resigned the Custody of the late King, the Parliament thought fit to take Cognizance of the Matter, and a Day was appointed him to appear and clear himself of being accessory to the Murder.

What farther Defence Berkele made before the Peers I do not find, but there is a Record still in being, which recites that in the 9th Year of Edward III. Berkele was brought before the Parliament at York, and the Earls, Barons, and Great Men, were charged by the King upon their Faith and Allegiance, to deliberate on this Affair, and give him Counsel; and they pronounced him innocent of the Charge, and no way concerned, or Privy to the Murther: *Dicentes tamen quod de tam horribili facto quod in Castro ipsius Thomæ, & in custodia sua contigit ausi non fuerunt precise consulere, sed quod Nos ipsi ad voluntatem nostram inde Ordinaremus.*

The King having recited this in the Record, discharges himself, and even his Successors, from molesting Berkele for the future.

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5 Edw. III.

He is acquitted.

Proceedings against SIMON DE BEREฟอร์ด for High Treason, Felony, Anno. 1330. 5 EDW. III.

Bereford.

1330.
5 Ed. III.

The Charge.

Tried and
condemned
by the Peers
though a
Commoner.

SIR Simon was charged before the Peers with advising, and assisting Roger Mortimer, and with all the Treasons and Felonies of which the said Roger had been convicted.

To which the Peers unanimously answered, that the said Simon was not their Peer, and therefore they were not bound to judge him as a Peer of the Land: But since it was a thing so notorious, and known to all, that he was advising, aiding and assisting the said Roger in all the Felonies, Treasons, and Villanies aforesaid, which were to the Usurpation of Royal Power, the Murther of their Liege-Lord, and Destruction of the Royal Blood, and that he was guilty of divers other Felonies and Robberies, and principal Maintainer of Robbers and Felons: They

as Peers and Judges of Parliament, by assent of the King, did award and adjudge him as a Traytor, and Enemy to the King and Realm, to be drawn and hanged; and the Earl Marshal was commanded to do Execution, which was done accordingly, on Monday next after the Feast of St Thomas the Apostle.

But it appears by the same Parliament-Roll: That it was then also declared, that though the Lords and Peers in Parliament, had for this time in the King's Presence, proceeded as Judges to give Judgment upon those that were no Peers, yet hereafter this should be no Precedent to draw them to give Judgment on any other but their Peers in case of Treason or Felony.

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5 Ed. III.

Executed as
a Traytor.

Maltravers. **Proceedings against Sir JOHN MALTRAVERS, for High
Treason, Anno 1330. 5 EDW. III.**

1330.
5 Ed. III.

The Charge.

SIR John was charged with High Treason, in betraying the late Earl of Kent, the King's Uncle, into a belief that King Edward II. was living, and thereby drawing him into a Plot, which was fatal to the Earl.

Condemned
by the Peers.

The Peers thereupon adjudged that Sir John was guilty of the Fact, and sentenced him to be executed as a Traitor, when he should be taken; moving the King to offer a Reward of One Thousand Marks for the taking him alive, and five hundred Pound for his Head.

Pardoned.

However Sir John having lived sometime an Exile in Germany, and afterwards done the King signal Service in his Wars in Flanders, received his Pardon; and in the 25th of Edward I. petitioned to have his Pardon confirmed in Parliament, which was granted; and his Estate was restored him with his Honour.

It does not appear that he was ever called to an Account for the Murder of King Edward II. though he was generally reputed to be one of the Murderers.

Bogo de Ba-
yons.
D'Averil.

Bogo de Bayons, and John D'Averil were in like manner charged with the Murder of the late Earl of Kent; and the like Sentence passed on them as on Maltravers; and Rewards offered for the

taking of them, but it does not appear they were ever taken.

Thomas de Gurney, and William D'Ocle were at the same time charged with High Treason in murdering the late King Edward II. and the usual Sentence in Cases of High Treason passed upon them; and a Reward was set upon their Heads. Gurney was afterwards apprehended at Marseilles in France, and put on Board a Ship to be brought to England; but those who had the care of bringing him over, thought fit to behead him in the Passage.

How frequent soever these kind of Proceedings were in the Reign of King Edward III. and how guilty soever the Criminals might be, the Judgments passed on them, were far from being legal: For it does not appear that Bills of Indictment were found against any of the Criminals, or that any of them were impeached by the Commons; only a Charge was preferred against them to the House of Peers by some of the King's Council, in the absence of the Criminals: And as the Peers then observed, that they were not bound to pass a Judgment on Commoners; so neither were Commoners bound to submit to their Judgments, unless they had been impeached by the Commons.

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5 Ed. III.

Gurney.
Ocle.

Mortimer.

**Proceedings against ROBERT MORTIMER, Earl of March,
for High Treason. Anno 1330. 5 EDW. III.**

1330.
5 Ed. III.
The first
conviction
of Mortimer.

THIS Roger Mortimer the younger, together with his Uncle Roger, had been condemned for High Treason, in conspiring with the Earl of Lancaster to depose King Edward II. in the Year 1322. But in consideration of their submitting to the King before the Action of Borough-bridge, were pardoned as to Life, only confined to the Tower of

London; from whence the younger Mortimer by the Queen's Assistance made his escape into France.

The substance of the second Charge against Roger Mortimer the younger was, that he had usurped the Administration, and assumed Royal Power, during the Minority of Edward III. That he was bribed by the Scots to suffer their Army

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5 Ed. III.

The second
Charge a-
gainst Mor-
timer.

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5 Edw. III.

to escape out of England: That he had been instrumental in procuring the Death of the late King Edward II, and of the Earl of Kent his Brother: That he had filled all Places with his own Creatures; embezzled the publick Treasure, and held a Criminal Conversation with the King's Mother: Of which the Lords being satisfied from the Notoriety of the Facts, passed Sentence on him as a Traytor, without calling the Prisoner before them to make his Defence, or examining one Witness against him; and he was executed in pursuance of his Sentence at Tyburn, where his Body remained upon the Gallows two Days.

Condemned
and executed

His History.

Roger Mortimer and the Queen having governed the Kingdom as they saw fit, in the Name of the Infant King Edward III, for three Years, and so corrupted or over-awed the Parliament, that they attainted and cut off their most formidable Enemies among the Nobility, Mortimer began to look upon his Tyranny to be so well established, that there was no shaking it; but the Queen assembling the Peers at Nottingham, in the Year 1329, she was given to understand, there was a formidable Conspiracy carrying on in the Town against her: Whereupon, by the Advice of Mortimer, she introduced an extraordinary Guard of two hundred Knights into the Castle of Nottingham, where she had taken up her Quarters, besides the ordinary Garrison: But the young King who lay in the Town, keeping a secret Intelligence with the Governor, was directed by him, to enter the Castle by a subterraneous Passage in the Night-time, and guided to Mortimer's Apartment: He was attended by Sir William Montacute, afterwards Earl of Salisbury, Sir Humphrey de Bobun, and some other brave Knights; where they surprized the Minister. And so little Resistance it seems was made, notwithstanding

all the Precaution they had taken, that only two of Mortimer's Knights were killed in his Defence; and these probably lost their Lives before they knew the King was of the Party, for as soon as this was known all submitted. Mortimer, who had not an Hour before looked upon himself as the greatest Man in the Kingdom, was perfectly deserted, and sent Prisoner to the Tower; together with Geoffry Mortimer, his Son, and Simon de Beresford, who were taken with him. After which the King dissolved the Parliament, which was composed of Mortimer's Creatures, and summoned another to meet at Westminster, where the King took the Administration of the Government into his own Hands, with the Revenues of the Crown, leaving the Queen Dowager a very moderate Stipend, and confining her Prisoner in the Castle of Rising in Norfolk. And this, considering she had been guilty of deposing and murdering the late King her Husband, usurping his Authority, and living in open Adultery, was not esteemed too severe a Fate, though it was not thought fit to bring her to a Trial, as she was Mother to the Reigning Prince. Mortimer was impeached in Parliament upon fourteen Articles, the Principal whereof are recited above, and he was afterwards condemned and executed in the manner above related; but the Proceedings afterwards being judged illegal, on account of his not being heard in his Defence, his Attainder was reversed, and his Estate restored to his Son. Though had Mortimer been suffered to make a Defence, it could have availed but little, his Treasons being so many, and so notorious. And it was observed, he had but little reason to complain of hard Usage, having destroyed the Spencers in a more arbitrary manner, by his own usurped Authority.

P

These are the Treasons, Felonies, and Mischiefs, done to our Lord the King, and his People, by Roger Mortimer, and others of his Company.

I. Whereas, in the Parliament holden at Westminster, next after the King's Coronation, it was ordained, That four Bishops, four Earls, and six Barons, should remain with the King to advise Him, and that four should still be with Him, viz. One Bishop, one Earl, and two Barons at least, and that no great Business should be done without their Assent: After which Parliament, the said Roger, not having regard to the said Assent, usurped to Himself Royal Power, and the Government of the Realm, above the State of the King, and put out, and placed Officers in the King's House, and elsewhere, throughout the Kingdom, at his Pleasure, such as were of his Party, and set John Wyward, and others, about the King to observe his Actions and Words so as he was encompassed by his Enemies, and he could do nothing as he would but only as a Man under Guard or Restraint.

II. Also, whereas the King's Father was at Kenilworth, by Order and Assent of the Peers of the Land, to stay there for his ease, and to be served as such a Great Person ought to be; the said Roger, by his usurped Power, which he exercised over him at his Pleasure, ordered that he should be sent to Berkley-Castle,

The Articles
at large pre-
ferred against
Mortimer.

1330.
5 Edw. III.
The Articles
at large pre-
ferred against
Mortimer.

Castle, where by him and his Confederates, he was traitorously, feloniously, and falsely murdered and killed.

III. Also the said Roger, by his usurping Royal Power, forbid by the King's Writ under the Great Seal, that any should come to the Parliament at Salisbury with Force of Arms, under pain of forfeiting whatever they had to the King; yet thither he came with others of his Party with Force of Arms to the said Parliament, contrary to the Prohibition aforesaid: Wherefore divers Peers of the Land, as the Earl of Lancaster, and others, knowing the manner of his coming, would not be there: And whereas the Prelates were assembled in one House, to consult about the Business of the King and Realm; the said Roger broke open the Doors of the said House with armed Men, upon the Prelates, and threatened them with Life and Member, if any of them should be so hardy, as to speak, or do any thing contrary to his Pleasure in any Point. And in the same Parliament, by the said usurped Power, he caused the King to make him Earl of March, and to give him and his Heirs, several Lands in disherison of the Crown; and afterwards the said Roger, and those of his Party, led the King, armed against the Earl of Lancaster, and other Peers of the Land, as far as Winchester, when they were coming to the Parliament at Salisbury, so that the Earl and other Peers, to avoid the Evils that might have happened, out of regard to the King, departed and went towards their own Countries, grieving that they could not speak with Him, or advise their Liege Lord as they ought to do.

IV. Also the said Roger, by the said usurped Power, caused the King to march forcibly against the said Earl, and other Peers of the Land, who were appointed to be with the King to advise him, and so prosecuted them with force, that the said Earl, and some others of his Company, that wished well to the Kingdom, submitted to the King's Grace, saying to them Life and Member, and that they might not be disherited, nor have too great a Fine set upon them; yet he caused them to be fined so grievously, that half their Lands if sold outright, would only pay it; and others he caused to be driven out of the Nation, and their Lands to be seized, against the Form of the Great Charter and Law of the Land.

V. Also, whereas the said Roger knew well the King's Father was dead, and buried, he by others of his Party, in deceivable manner, informed the Earl of Kent, that he was alive; wherefore the Earl, being desirous to know whether it was so or not, used all the good ways he could to discover the truth, and so long, till the said Roger, by his usurped Royal Power, caused him to be apprehended in the Parliament holden at Westminster, and so pursued him, as in that Parliament he procured his death.

VI. And the said Roger, by his usurped Royal Power, caused the King to give to him and his Children, and Confederates, Castles, Towns, Manors, and Franchises, in England, Ireland, and Wales, in decrease of the Revenues of the Crown.

VII. Also the said Roger, in deceivable manner, caused the Knights of Shires, at the Parliament at Winchester, to grant to the King, one Man at Arms, out of every Town in England, that answered in the Court of the Exchequer, by four Men of the Provost, (i. e. the Reeve or the Bailiff of the Lord of the Manor) to serve at their own Cost, for a Year in his War in Gascoigne; which Charge he contrived for the advantage of himself and Party, in destruction of the People.

VIII. Also the said Roger, by his said usurped Power, caused Summonses to be sent to many great Knights, and others, that they should come to the King wherever he was; and when they came, he caused them to be charged to prepare themselves to go into Gascoigne, or Fine at his Pleasure; which Fines were for the Benefit of him and his Party.

IX. Also the said Roger falsely and maliciously made discord between the King's Father and his Queen; and possessed her, that if she went to him, she should certainly be killed with a Dagger, or otherwise murdered; and by this way and his other Subtleties, he so ordered it, that she would not come at her Liege Lord and King, to the great Dishonour of her Son and her Self, and great Damage of the whole Realm, perchance in time to come, which God forbid.

X. Also the said Roger, by his said usurped Royal Power, had caused to be taken for him and his Party, the King's Treasure, as much as he pleased, without tale, in Money, and Jewels, in destruction of the King, so that he had not wherewithal to pay for his Victuals.

XI. Also the said Roger, by the said usurped Power, caused to be shared between him and his Confederates, the twenty thousand Marks which came out of Scotland for the Articles of Peace, without any thing received by the King.

XII. Also the said Roger, by his above-mentioned Royal Power, received the King's Duties and Purveyance through the Kingdom, as if he had been King; and he and his Party had with them double the Company of Men and Horse that were with the King, in destruction of the People, not paying for their Quarters any more than they themselves pleased.

XIII. Also the said Roger, by his said Royal Power, caused the King to grant to the Mounting two hundred Irish Chivalers, or Horse, being of those that killed the Great Men of Ireland, and others, who were in the King's Faith; whereas the King ought immediately to have revenged their Death, rather than pardoned them contrary to the Statute and Assent of Parliament.

XIV. Also the said Roger, contrived to have destroyed the King's secret Friends, in whom he had most Confidence, and he surmized to the King in the presence of the Queen his Mother, the Bishops of Lincoln and Salisbury, and others of his Council, that his said secret Friends had excited him to combine with his (the said Roger's) Enemies beyond Sea, in Destruction of the Queen his Mother, and of him the said Roger, and this he affirmed so impudently to the King, that he could not be believed against what he had said, and for these Things and many others, not as yet fit to be declared, he had been apprehended, wherefore the King charged the Earls and Barons, the Peers of the Land, as these things concerned himself, themselves, and all the People of the Realm, to do right and true Judgment upon him, for the Crimes above-written, as being notorious, and known to be true to themselves and all the People of Kingdom.

Proceedings against Sir JOHN MONTIETH, of the Kingdom of Scotland, for High Treason. Anno 1346. Montieth,

21 EDW. III.

1346.
21 Ed. III.
The Charge.

THE Treason Sir John was charged with, was his taking up Arms and levying War against King Edward III, after he had acknowledged the King of England his Sovereign, and taken the Oaths of Allegiance to him.

What Defence the Prisoner made in particular, or whether he made any does not appear; but what the Scottish Prisoners in the like Circumstances usually insisted on in their Defence, seems to have been, that Scotland was an Independent

Kingdom, and that as the Kings of England, had no other Title to their Allegiance than Conquest, or an irresistible Force, so when they had driven out his Troops, and had thrown off the Yoke, they were a free People again, and ought not to be looked upon afterwards as Subjects of England.

But this Plea was over-ruled it appears, and Sentence passed on the Prisoner as a Traytor, in Pursuance whereof he was executed as such. Condemned and executed.

1346.
21 Ed. III.

Proceedings against the Earl of FIFE, for High Treason. Anno 1346. 21 EDW. III. Earl of Fife,

1346.
21 Ed. III.
The Charge.
Convicted.

THE Charge against the Earl of Fife, was of the same Nature as that against Sir John Montieth, and Sentence passed on him as a Traytor, but whether he was executed or not, our Historians are not agreed, for Stow says, he was drawn, hanged, and quartered, and his Head set upon London-Bridge, while other Writers affirm, that Execution was respite during the King's Pleasure, and seem to insinuate that he was pardoned.

It was admitted both by the English and Scottish Historians, that King Edward I, and King Edward III, subdued the Kingdom of Scotland several times, compelled most of the Scots to acknowledge the King of England their Sovereign, even in a Parliament of their own Nation, and to take the Oaths to him; notwithstanding which, there were frequent Insurrections in Scotland, and the English were

sometimes driven from thence, but upon the Victory obtained by the English at Nevils Cross, where David Bruce, whom the Scots had advanced to the Throne, and their greatest Noblemen were taken Prisoners, King Edward appears determined to assert his Dominions over that Kingdom, and thereupon, proceeded against these Gentlemen, and several more of the Prisoners as Traytors, and actually executed some of them, to deter that People from resisting his Authority for the future: and the Scots remained many Years afterwards in a State of Subjection.

It is observable from these and other Instances of the like Nature, that these Gentlemen who were executed as purjured Traytors by the English, were esteemed by the Scots, their Countrymen, the most Celebrated Heroes and Patriots their Country produced.

1346.
21 Ed. III.

Proceedings

Lyon.

Proceedings against RICHARD LYON, Farmer of the Customs, for Misdemeanours in his Office, Anno. 1376.
51 EDW. III.

1376.
51 Ed. III.

The Charge.

The Sentence.

THE Crimes Lyon was charged with were, 1. His not observing the Statute which fixed the Staple of *English Wool* at *Calais*, but selling it elsewhere. 2. His defrauding the King in his Customs and Revenues, of which he was impeached by the Commons.

The Peers upon this Charge adjudged, that *Lyon* should be displaced, and rendered incapable of serving the King for the future, that he should forfeit his Goods and Chattels, and the Franchise of the City, and be imprisoned during the King's Pleasure.

At a Parliament held the following Year, the Commons preferred a Petition to his Majesty, reciting, that the said *Rich-*

ard Lyon by an hasty Process, was the last Parliament adjudg'd to be imprisoned in the *Tower of London*, during his Majesty's Pleasure, that therefore it would now please him, that he should be restored to his Liberty, as also to his Goods, Lands and Tenements, since according to Law, no Cause of Forfeiture could be found against him.

The Lord *Latimer*, also, who had been impeached by the former Parliament as a Confederate of *Lyon's*, and the like Sentence passed against him, was upon the Petition of the Commons restored, and the said Judgment against him reversed in this Parliament.

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51 Ed. III.

Reversed.

Lord *Latimer* the like.

Alice Piers.

Proceedings in Parliament against Dame ALICE PIERS, or PERRARS, the King's Concubine, for Intermeddling in Affairs of State, &c. Anno 1376. 51 EDW. III.

1376.
51 Ed. III.

The Charge.

Removed from Court.

THIS Lady was charged with fitting in the Courts of Justice, and influencing the Judges to determine Cases as she directed. She was also charged with intermeddling in Affairs of State, and countenancing, and protecting *Lyon* and his Confederates, in their embezzling the publick Revenues, and defrauding the King of his Customs. Whereupon the Commons petitioned His Majesty, that she might be removed from Court, together, with the Duke of *Lancaster*, the Lord *Latimer*, then Lord Chamberlain, and Sir *Richard Sturry*, who were suspected to be in a Design, to set aside Duke *Richard*, Son of the Prince of *Wales*, in Favour of the Duke of *Lancaster*, and they were all of them banished the Court in pursuance of the said Petition.

But at a Parliament held the following Year 1377, the Prince of *Wales* being dead, we meet with a counter Petition from the Commons to the King and Council, of the following Tenor, viz.

" To their most Dread and Gracious
" Lord the King, and his Sage Council,
" in this present Parliament, His Com-
" mons make Supplication, That where-
" as, *Alice Perrars*, by untrue Suggest-
" tion, and undue Process, in the last
" Parliament, was foreclosed of the com-
" mon Liberty, which every Liege Sub-
" ject of the King, as well Men as Wo-
" men, ought freely to enjoy, unless they
" be convicted of a Crime, for which
" they are to forfeit it: That therefore it
" would please His Majesty, for the
" Love of God and right Justice, to have
" Consideration, that the said *Alice* was
" never present in Parliament, nor duly
" admitted to answer any thing for which
" she was adjudged: And for this Cause
" to reverse the Judgment, and cause
" her to be restored entirely to her former
" Estate; the said Judgment or any Pro-
" hibition made against the said *Alice*,
" in the same Parliament notwithstanding.
" And the Judgment against the said

1376.
51 Ed. III.

Restored.

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51 Ed. III.

A fresh
Charge a-
gainst Alice
Piers.

said *Alice*, and her Confederates, was thereupon reversed, and they returned to Court, where they influenced all Causes and Affairs of State as much as ever.

At a Parliament held the same Year 1377, 1 *Richard II.* the Lady *Alice Piers* was brought before the House of Peers, and Sir *Richard L'Escepe*, Steward of the King's Household, recited in the presence of the said *Alice*, an Ordinance made in the Parliament holden at *Westminster*, in the 50th Year of the late King *Edward III.* That no Women, especially *Alice Perrers* or *Piers*, should prosecute any Business in the King's Court by way of Maintenance, upon pain of Forfeiture, and Banishment out of the Kingdom; and the said Seneschal farther informed the Lords, that she had incurred the Penalty of it in two Points.

I. " That Sir *Nicholas Dagworth*, being ordered by the King's Council to go into *Ireland*, upon several matters of great Moment to the King and Realm, she had persuaded the King, that the said *Nicholas* (to the great Prejudice of both) should be countermanded.

II. " That *Richard Lyons*, having for certain Misprisions, for which he was convicted in the late Parliament, submitted himself to the King's Grace; as to his Body, Lands, and Goods, the said *Alice* had procured the King, with the Assent of his Council, to pardon the said *Richard* three hundred Pounds, which he owed to the Exchequer, and had farther granted him a thousand Marks as a Gift; which things being contrary to the said Ordinance, the Steward demanded of the said *Alice*, how she could clear herself of those Articles.

Her Defence.

Then the said *Alice* answered, " That she was not culpable or guilty of them, which she was ready to aver, and prove by the Witness and Testimony of *John D'Ipre*, at that time Steward of the King's House, *William Sheet*, Comptroller, Sir *Allen Buxball*, *Nicholas Carren*, Keeper of the Privy Seal, and others of the Court of the late King, who were present at the time of the supposed Forfeiture.

The Evidence against her.

Upon *Wednesday*, the day assigned, the Witnesses were examined, and sworn before the Duke of *Lancaster*, the Earl of *Cambridge*, and other Lords. And it appeared by the Testimony of Sir *Roger*

Beaumont, Chamberlain to the late King, that he being asked to deliver a Bill containing the Revocation of *Nicholas Dagworth*, and importuned by the said *Alice* so to do, yet he refused to do it, because it was contrary to a late Order of Council: But the late King asking what they talked about, and being informed of the Contents of the Bill, he thereupon voluntarily declared, that the Petition was reasonable. And when Sir *Roger* replied, that his Council had ordained to the contrary, the King answered, *He was Sovereign Judge, and it seemed to him, that the former Order was reasonable*, and commanded him to call back the said *Nicholas*, which was done accordingly: The Duke of *Lancaster*, deposed much to the same purpose, concerning the recalling of Sir *Nicholas Dagworth*: That the King had declared, *It was not reasonable that one Enemy should judge another*, and therefore he thought fit to countermand the Voyage, though he (the Duke) had satisfy'd the King, it was done by his Consent in Council: That Sir *Roger* not long after came from *Alice Perrers's* Chamber to the Duke, and told him, he must not suffer *Dagworth* to go to *Ireland*: But the Duke would not then comply, by reason it was otherwise ordained by King and Council, though afterwards at the King's express Command *Dagworth* was countermanded; but as to the Article of *Richard Lyons*, he said in his Conscience, he believed *Alice Perrers*, was the chief Promoter of that Business, but he was not then present himself.

Nicholas Carren being sworn, deposed, That coming to the King at *Sheen*, he there found *Richard Lyons*, and they two being commanded to come to the King's Bedside, he there saw Dame *Alice* sitting at his Bed's Head; where was shewed that the King would pardon the said *Richard* three hundred Pounds, due to him upon account in the Exchequer, and also give him a thousand Marks of his Treasure, and restore him what was given to his Sons, the Earl of *Cambridge*, and Lord *Thomas of Woodstock*; and commanded him the said *Nicholas*, to let his Sons know so much, and that the King revoked these Grants of his meer Grace.

After him, Sir *Allen Buxball*, deposed to the same purpose, as, That *Alice Perrers* farther desired the King to acquaint the said Earls of his Pardon to *Lyons*, which at her Instance the King commanded *Buxball* to do; and presently after there

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Conviction.

Sentence.

there were twelve other Persons called in, who were most of them Witnesses, who in the Nature of a Jury or Inquest being sworn and charged to speak the truth, whether the said *Alice* were culpable or not of what she was charged with; they found her guilty, according to the Intent of the Statute made in the 50th Year of *Edward III.* Then considering the Damages and Villanies by her done; she was sentenced by Parliament to be banished, and her Lands, Chattels, Tenements in Present and Reversion to be forfeited and seized into the King's Hands; and it was farther ordained by the King and Lords in that Parliament. That all her Lands in *Feoffee's* Hands, and purchased in Trust should be also forfeited: But that it was the Intention of the King and Lords, *That this Law particularly made for the prevention of such odious Things should not be made use of, nor drawn into Example against any other Person, or in any other Case.*

Sentence reversed.

Her History.

Alice Perrers was soon after married to Sir *William of Windsor*, a Person of Note; and they both in Parliament petitioned for a Revocation of the Sentence, for divers Errors therein recited; and they thereupon obtained a Reversal of the same, in the 8th Year of *Richard II.* It does not appear in History of what Family this Lady was, who gained such an Ascendant over this victorious Prince, or at what time he became her Votary. Only it is related that she had long been his Concubine; and as he died in the 36th Year of his Age, he was probably acquainted with her, before he began to decline either in his Person or Fortunes: However it was not till the last Years of his Life, when his heroick Son, *Edward the Black Prince* became incapable of attending the Administration of the Government, that the Influence she had over the old King was discovered. But

the Duke of *Lancaster*, the King's Second Son at this time, uniting his Interest with this Lady it seems disposed of all Places and Preferments, and in a manner had the direction of all Affairs of Moment. The Duke is supposed to have been laying Schemes even at that time of advancing his Family to the Throne, though the Lady's Views seem to have been principally the heaping up Treasure, and the securing the Enjoyments of it by powerful Alliances.

The Friends of the Prince of *Wales* being jealous of the Designs of the Duke of *Lancaster*, prevailed on him to appear once more in Parliament, notwithstanding his ill State of Health; and to join with them in their Addresses to the Throne, for removing the Duke of *Lancaster*, the Lady *Alice Piers* and her Creatures from Court, as the likeliest way to secure the Succession of the Crown to his Son *Richard*; and their Petition it appears was granted. But the Prince dying soon after; the Duke of *Lancaster*, *Alice Piers*, and the rest of their Party, resumed their Places and Influence again: And Sir *Thomas De la More*, or *Dela Mere*, of the House of Commons, who had been most instrumental in the displacing of the Duke of *Lancaster* and his Creatures, was apprehended, and committed to *Nottingham Castle*; where he remained a Prisoner till the beginning of the next Reign. And such was the Interest of the Royal Concubine at Court, even in the Reign of *Richard II.* that notwithstanding an Act or Ordinance of Parliament was procured for her Banishment, and the Confiscation of her Estate, she found means to get it repealed; and she enjoyed the Estate she had gotten by Extortion, Oppression, and other vile Arts, for ought appears, to the Day of her Death.

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Proceedings against Sir JOHN MENSTERWORTH, for High ^{Mensterworth.} Treason, before the Mayor and other Commissioners of Oyer and Terminer at Guild Hall, London. Anno 1377. 52 EDW. III.

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2 Ed. III.
The Charge

THE Charge against Sir John, was, that being entrusted by his Sovereign Lord the King, and having received considerable Sums of Money, wherewith to pay the King's Soldiers, he had falsly and traiterously kept the Money to his own use: Also that he had maliciously occasioned a Dissention and Discord in the King's Army, and thereby gave the Enemy advantage against them: Wherefore being accused unto the King, and fear-

ing the Punishments due unto him; therefore he like a false Traytor, had fled into France unto the King's Enemies, and there was sworn unto the French King, and conspired against his own Sovereign, undertaking to direct the Spanish Navy, and bring them into England, to the Destruction of his native Country. Of all which being convicted, he was upon the 13th of April executed at Tyburn, and his Head set upon London-Bridge.

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Convicted
and Executed
as a Tray-
tor.

Seven Years before this Trial, Sir John Mensterworth, who is allowed to have been a gallant Knight, but False, Covetous, and Disloyal, was in the Army under Command of Sir Robert Knolles, in France, with the Lords Grandison, and Fitzwalter. These two young Lords disputed with their General about their Winter Quarters; he would have them Winter in *Britagne* as the securest Place: But they in Confidence of their own Valour and Contempt of the French, would Quarter in the Enemies Country. Mensterworth improved this Misunderstanding, and encouraged the Lords to continue with their Body a Day's March from the General. Sir Robert finding the Constable of France coming down upon him, resolved to give him Battel, and sent the Lords to come and join him. This they attempted to do, but the Constable by Intelligence, as was suspected, given him by Mensterworth, lay in Ambuscade for them, routed their Party, and took the Lords Prisoners.

Mensterworth made a Shift to escape from this Fight; went over to England, and accused Sir Robert Knolles to the King of Treason, and particularly of being the occasion of this Defeat; and that he had taken great Sums of Money last Campaigne of the French Governours, to spare their Towns and Country.

The King upon this withdrew Sir Robert's Pension from him, by the Advice of his Council; but he afterwards so well justified his Conduct by Sir Allen Baxul his Brother, and other Knights who served under him, that Mensterworth was summoned before the King and Council, and had a Day set him to answer.

But he fled into France, revolted to that King, and discovered all that he knew to the Prejudice of his Country.

Some Englishmen meeting him afterwards at Pampelona in Navarre, shewed English Repentment, and seized him by Surprise. He was brought over by Permission of the King of Navarre, and tried, and convicted, as related above.

Proceedings against Dr JOHN WICKLIFF, Professor of ^{Wickliff.} Divinity, and Warden of Canterbury College in Oxford, for Heresy. Anno 1377. 52 EDW. III.

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52 Ed. III.
Articles against him.

THE Principal Articles Dr Wickliff and his Followers were charged with, were, 1. That they held the Eucharist in the Altar, after Consecration, is not the true Body of Christ, but it's Figure.

2. That the Church of Rome, is not the Head of all Churches, more than any other Church; nor was there any greater Power given to Peter, than to any other Apostle.

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3. That

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before the
Archbishop.

3. That the Pope of Rome had no greater Power in the Keys of the Church, than any other Priest.

4. That the Temporal Lords (that were Patrons) might lawfully and meritoriously take away the Temporals from a delinquent Church.

5. That if a Temporal Lord knew a Church delinquent, he was bound under the pain of Damnation, to take the Temporals from it.

6. That the Gospel was a sufficient Rule for the Life of a Christian; and that all other Rules of Saints under the Observation whereof divers Religious live, add no more Perfection to the Gospel, than whiteness to the Wall.

7. That neither the Pope, nor any other Prelate of the Church, ought to have Prisons to punish Delinquents.

Pope Gregory II, upon hearing these Articles read, directed his Bulls to the Archbishop of Canterbury, and the Bishop of London, commanding them to use their Authority for the apprehension of the said Wickliff, in order to examine and censure his Opinions; and being cited by the Archbishop of Canterbury, to appear, and answer in his Court at St Paul's Church for the same: Wickliff appearing according to his Citation, was accompanied thither by the Duke of Lancaster, and the Lord Piercy, (then Lord Marshal) who out of spite to the Bishops both came as his Patrons, and Favourers of his Opinions, to our Lady's Chappel in St Paul's, attended by a great number of other People. But when William Courteney Bishop of London, saw the stir that the Marshal and his Men made among the People, he said unto the Lord Piercy, That if he had known before, how he would have plaid the Master in his Church, he would have hindered him from coming thither. At which Words of the Bishop, the Duke being concerned, answered him that the Marshal should play the Master there, as he had begun, even though he, the Bishop said nay. Then as soon as they were come into the Chappel, the Duke and Lords sat themselves down with the Archbishop and Bishops; John Wickliff standing before them according to the usual manner, ready to answer what should be objected to him. The Lord Marshal first breaking Silence, desired Mr Wickliff to sit down; alledging that he had many things to answer, and therefore had need of some repose. But the Bishop of London said, He should not sit down there,

for neither was it according to Law nor Reason, that he who was cited there to appear to answer before his Ordinary, should sit down during the time of his Answer. These Words created others, and those still begat more; the Bishop standing upon the Privileges of his Function, and the Earl Marshal upon his own and the King's Authority; so that many reflecting Words and Menaces passed on both Sides to the great offence of the Auditors.

Then the Duke began to take the Marshal's part, and warmly to reprove the Bishop, who was not a jot behind hand with him; so that the Duke finding himself worsted by the Bishop, in Words, threatened, that he would shortly bring down the Pride of him and all the Prelates in England; and told him farther, that he presumed too much on his Parentage, but that should not be able to help him. To which the Bishop replied, That he was only bold for the Truth, and that his Confidence was not in his Parents, but in the living God. Then the Duke whispered to one that was next him, That he had rather drag the Bishop out of the Church by the Hair of the Head, than take such Language at his Hands: However this was not uttered so softly, but that some of the Citizens overheard him; who being enraged, thereupon cried out, That they would never see their Bishop so abused, but rather lose their Lives than that he should suffer such an Indignity. Upon this Contention the Court was dissolved before nine of the Clock, and the Duke with the Lord Piercy returned to the Parliament then sitting at Westminster, and Wickliff was at the same time dismissed, though not without a severe Prohibition from the Bishops, never for the future to preach, nor write any more in defence of those Articles laid to his Charge; and so the Business ended at that time.

His Holiness also wrote a Letter to the said Bishops, that if they found his Opinions to be such as they were represented, that they should keep him in safe Custody, until they should receive his farther Commands, and in a second Letter he directed them to use all diligence to preserve the King, Queen, and Royal Family, with the great Men of England from these Errors and Heresies: Which Bulls and Letters bear Date at Rome, May 20, in the seventh Year of his Pontificate, 1377.

Wickliff prohibited to Preach, or Write in defence of the Articles.

But

But notwithstanding Dr *Wickliff* was prohibited by the Bishops to treat of these Subjects, it does not appear he was either imprisoned or censured, during his Life.

His Doctrines however after his Death were condemned by the University of *Oxford*, in the Year 1409, and the maintaining them prohibited on pain of Excommunication and Degradation. And in the Year 1428, *Wickliff* and his Doctrines were condemned by the Council of *Constance*; which pronounced the following Sentence against him. (*Viz.*)

That the said *John Wickliff* being a notorious obstinate Heretick, and dying in his Heresy; his Body and Bones, if they might be discerned from the Bodies of other faithful People, should be taken up out of the Ground, and thrown away from the Burial of any

Church, according to the Canon Laws 'and Decrees.' The Execution of this Sentence, which was approved by the whole Assembly, was committed to the Bishop of *Lincoln*, *Richard Fleming*, in whose Diocese the Parish of *Lutterworth*, of which *Wickliff* was Parson, and where he laid buried, was. The Bishop as zealous as the Council against what they called Heresy, as soon as he had received his Orders, sends his Officers, viz. his Archdeacon, Officials, Commissaries, and other Servants to *Lutterworth* to take up *Wickliff's* Bones, and remove them out of Christian Burial; who were so far from coming short of their Commission, that they exceeded; and having taken his Bones out of his Grave, one and forty Years after his Burial, burnt them and cast them into a Brook adjoining, called *Swift*.

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His Bones
burnt.

*A Tryal by Battel, between Sir JOHN ANNESLY Knight.
and THOMAS KATRINGTON Esquire. Anno. 1380,
4 Ric. II.*

Annesly and
Katrington.

THE Knight accused the Esquire of Treason: For that whereas the Fortress of *St Saviour*, within the Isle of *Constantine* in *Normandy*, belonging some time to Sir *John Chandois*, had been committed to the said *Katrington* as Captain thereof, to keep it against the King's Enemies; he had for Money sold and delivered it over to the *Frenchmen*, where he was sufficiently provided of Men, Ammunition and Victuals to have defended it against them. And sith the Inheritance of that Fortress, and Lands belonging thereto, had appertained to the said *Annesly* in right of his Wife, as nearest Cousin by Affinity unto Sir *John Chandois*, if by the false Conveyance of the said *Katrington*, it had not been made away and alienated into the Enemies Hands; He offered therefore to try the said Quarrel by Combat against the said *Katrington*.

It being the opinion of the most ancient Knights, that for such a Foreign Controversy that had risen within the Limits of the Realm, but touched Possession of things on the further side the

Sea, it was lawful to have it tried by Battel, if the Cause were first notified to the Constable and Marshal of the Realm. The Combat was accepted by the Parties: Hereupon was the Day and Place appointed, and all things provided ready, with Lists railed and made substantial. The Concourse of People that came to *London* to see this tried, was thought to exceed that of the King's Coronation; so desirous Men were to behold a Sight so strange and unaccustomed.

The King, his Nobles, and all the People, being assembled, on the sixth of *June*, before the Palace of *Westminster*, where the Lists were set up, the Knight being armed, and mounted on a fair Courser, seemelie trapped; entred first as Appellant, staying till his Adversary the Defendant should come. And shortly after was the Esquire called to defend his Cause, in this Form: *Thomas Katrington* Defendant, 'come and appear to save the Action, for which Sir *John Annesly* Knight and Appellant, hath publickly and by Writing 'appealed thee.' He being thus called thrice by an Herald at Arms; at the

R

third

1380.
4 Ric. I.

Tryal by
Battel ap-
pointed.

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4 Ric. I.

The Charge
against Ka-
trington.

1380.
4 Ric. II.

third call did come armed likewise, and riding on a Courser, trapped with Traps embroidered with his Arms, at his approaching to the Lifts, he alighted from his Horse, left according to the Law of Arms, the Constable should have challenged the Horse, if he had entred into the Lifts. But his shifting nothing availed him, for the Horse after his Master was alighted beside him, ran up and down by the Rails, now thrusting his Head over, and now both Head and Breast; so that the Earl of *Buckingham*, because he was high Constable of *England*, claimed the Horse afterwards, swearing that he would have as much of him, as had appeared over the Rails, and so the Horse was adjudged unto him.

But now to the matter of the Combat (for this Challenge of the Horse was made after): As soon as the Esquire was come within the Lifts, the Indenture was brought forth by the Marshal and Constable, which had been made and sealed before them, with consent of the Parties; in which were contained the Articles exhibited by the Knight against the Esquire; and there the same was read before all the Assembly: The Esquire making some exceptions to the Articles, the Duke of *Lancaster* swore, that except according to the conditions of the Combat, and the Law of Arms, he would admit all things in the Indentures comprized (which were not made without his own consent) he should, as guilty of the Treason, forthwith be had forth to execution. The Duke with these Words won great Commendation, and avoided no small Suspicion that had been conceived of him as partial in the Esquire's Cause. The Esquire hearing this, said, that he durst fight with the Knight, not only in those Points, but in all other in the World, whatsoever the same might be (for he trusted more to his Strength of Body and favour of his Friends, than to the Cause which he had taken upon him to defend). He was indeed a mighty Man of Stature; whereas the Knight among those that were of a mean Stature was one of the least. The Friends to the Esquire, in whom he had great confidence to be born out through their Assistance, were the Lords *Latimer* and *Basset*, and there Adherents.

The Oath
taken by the
Combatants.

Before they entred Battel, they took an Oath, as well the Knight as the Esquire, that the Cause in which they were

to fight was true, and that they dealt with no Witchcraft, nor Art Magick, whereby they might obtain the Victory of their Adversary, nor had about them any Herb or Stone, or other kind of Experiment, with which Magicians use to triumph over their Enemies. This Oath received of either of them, having made their Prayers devoutly; They began the Battel first with Spears, after with Swords, and lastly with Daggers. They fought long, till finally the Knight had bereft the Esquire of all his Weapons, and at length the Esquire was manfully overthrown by the Knight. But the Knight thinking to fall upon the Esquire, he fell down sideling himself, not coming near to the Esquire, who perceiving what had happened, although he was almost overcome with long Fighting, made to the Knight, and threw himself upon him; so that many thought the Knight should have been overcome, others doubted not but that the Knight would recover his Feet again, and get the Victory of his Adversary.

The King in the mean time caused it to be proclaimed that they should stay, and that the Knight should be raised up from the Ground, and so meant to take up the matter betwixt them. To be short, such were sent as should take up the Esquire; but coming to the Knight, he besought them, that it might please the King to permit them to lie still; for he thanked God he was well, and mistrusted not to obtain the Victory, if the Esquire might be laid upon him in manner as he was cast. Finally when it would not be so granted, he was contented to be raised up, and was no sooner set on his Feet, but he chearfully went to the King without any Man's help; whereas the Esquire could neither stand nor go, without the help of two Men to hold him up, and therefore was set in his Chair to take his ease, to see if he might recover his Strength.

The Knight at his coming before the King, besought him and his Nobles, to grant him so much, that he might be estsoon laid on the Ground as before, and the Esquire to be laid aloft upon him: For the Knight perceived that the Esquire through excessive heat, and the weight of his Armour, did marvelously faint, so as his Spirits were in a manner taken from him. The King and his Nobles perceiving the Knight so courageously to demand to try the Battel forth to the uttermost,

1380.
4 Ric. II.

1380.
4 Ric. I.

Kattrington
vanquished.

attemost, offering great Sums of Money that so it might be done, decreed that they should be restored again to the same Plight in which they lay when they were raised up. But in the mean time the Esquire fainting, and falling down in a Swoon, fell out of his Chair as one that was like to yield up his last Breath presently among them. Those that stood about him cast Wine and Water upon him, seeking so to bring him again: but all would not serve, till they plucked off his Armour, and his whole Apparel; which thing proved the Knight to be vanquisher, and the Esquire to be vanquished.

After a little while the Esquire began to come to himself, and lifting up his Eyes, began to hold up his Head, and to cast a ghastly look on every one about him; which when it was reported to the Knight, he cometh to him armed as he was, (for he had put off no Piece since

the beginning of the Fight) and speaking to him called him Traytor, and false perjured Man, asking of him if he durst try the Battel with him again: But the Esquire having neither Sense nor Spirit to make Answer, Proclamation was made that the Battel was ended, and every one might go to his Lodging. The Esquire immediately after he was brought to his Lodging, and laid in Bed, began to wax raging wild, and so continuing still out of his Wits, about nine of the Clock next Day he yielded up the Ghost. This Combat was fought (as before ye have heard) the sixth of June, to the great rejoicing of the common People, and discouragement of Traytors.

I have recited the very Words of Mr Hollingshead, it being the most particular and circumstantial Relation of a Tryal by Battel I have met with.

1380.
4 Ric. II.
Dies next Day.

Proceedings against the Dukes of Hereford and Norfolk,
on Hereford's charging Norfolk with Treasonable Words:
Anno 1398. 22 Ric. II.

1398.
22 Ric. II.
Duke of Hereford
charged the
said Duke of
Norfolk with
High Treason.

AT a Parliament holden at Shrewsbury, 22 Richard II, Henry Duke of Hereford accused Thomas Mowbray Duke of Norfolk of certain Words that he should utter, in Talk had betwixt them as they rode together lately, betwixt London and Brainford, sounding highly to the King's Dishonour. And for further Proof thereof, he presented a Supplication to the King, wherein he appealed the Duke of Norfolk in Field of Battel for a Traytor, false and disloyal to the King, and an Enemy unto the Realm. This Supplication was read before both the Dukes in presence of the King: Which done, the Duke of Norfolk took upon him to answer it; declaring that in whatsoever the Duke of Hereford had said against him other than well, he lyed falsely like an untrue Knight as he was. And when the King asked the Duke of Hereford what he said to it, he taking his Hood off his Head said, "My Sovereign Lord even as the Supplication

" which I took you importeth Right, so
" I say for Truth, That Thomas Mowbray Duke of Norfolk, is a Traytor;
" false and disloyal to your Royal Majesty, your Crown, and to all the States
" of your Realm."

Then the Duke of Norfolk being asked what he said to this, answered, " Right Dear Lord with your Favour, that I make answer to your Cousin here; I say (your Reverence saved) that Henry of Lancaster, Duke of Hereford, like a false and disloyal Traytor as he is, doth lye in that he hath or shall say of me otherways than well." No more said the King, we have heard enough; and herewith he commanded the Duke of Surry, for that turn, Marshal of England, to arrest in his Name the two Dukes: The Duke of Lancaster, Father to the Duke of Hereford, the Duke of York, the Duke of Aumarle, Constable of England, and the Duke of Surry, Marshal of the Realm, undertook

1398.
22 Ric. II.

1398.
21 Ric. II.

undertook as Pledges Body for Body, for the Duke of *Hereford*, but the Duke of *Norfolk* was not suffered to put in Pledges, and so under Arrest was led unto *Windfor* Castle, and there guarded with Keepers that were appointed to see him safely kept.

After the dissolving of the Parliament at *Sbrensbury*, there was a Day appointed about six Weeks after, for the King to come to *Windfor*, to hear, and to take some Order betwixt the two Dukes, which had thus appealed each other. There was a Scaffold erected within the Castle of *Windfor*, for the King to sit with the Lords and Prelates of his Realm: and so at the Day appointed, he with the said Lords and Prelates, being come thither, and set in their Places, the Duke of *Hereford* Appellant, and the Duke of *Norfolk* Defendant, were sent for to come and appear before the King, sitting there in his Seat of Justice. And then began Sir *John Busby* to speak for the King; declaring to the Lords how they should understand, that whereas the Duke of *Hereford* had presented a Supplication to the King, who was there set to Minister Justice to all Men that would demand the same, as appertained to his Royal Majesty, he therefore would now hear what the Parties could say one against another: And withal the King commanded the Dukes of *Aumarle* and *Surry*, the one being Constable and the other Marshal, to go unto the two Dukes Appellant and Defendant, requiring them on his behalf to grow to some Agreement, and for his part, he would be ready to pardon all that had been said or done amiss betwixt them, touching any harm or dishonour to him, or his Realm; but they answered both assuredly, that it was not possible to have any Peace or Agreement made betwixt them.

When he heard what they had answered, he commanded that they should be brought forthwith before his Presence to hear what they could say. Herewith an Herald in the King's Name with loud Voice, commanded the Dukes to come before the King, either of them to shew his Reason, or else to make Peace together without more delay. When they were come before the King and Lords, the King spake himself to them, willing them to agree and make Peace together, for it is (says he) the best way you can take. The Duke of *Norfolk* with due

Reverence, hereunto answered, (it could not be brought to pass, his Honour saved. Then the King asked the Duke of *Hereford* what it was that he demanded of the Duke of *Norfolk*, and what is the matter that ye cannot make Peace together and become Friends.

Then stood forth a Knight, who asking and obtaining Licence to speak for the Duke of *Hereford*, said, "Right Dear and Sovereign Lord, here is *Henry* of *Lancaster*, Duke of *Hereford*, and Earl of *Derby*, who saith, and I for him likewise say, That *Thomas Mowbray* Duke of *Norfolk*, is a false and disloyal Traytor to you and your Royal Majesty, and to your whole Realm; and likewise the Duke of *Hereford* saith, and I for him, that *Thomas Mowbray* Duke of *Norfolk* hath received eight thousand Nobles to pay the Soldiers that keep your Town of *Calais*, which he hath not done as he ought: And furthermore the said Duke of *Norfolk* hath been the occasion of all the Treason that hath been contrived in your Realm for the Space of these eighteen Years, and by his false Suggestions, and malicious Council, he hath caused to die, and to be murdered your right dear Uncle the Duke of *Gloucester*, Son to King *Edward*. Moreover the Duke of *Hereford* saith, and I for him, that he will prove this with his Body, against the Body of the said Duke of *Norfolk* within Lists." The King herewith waxed angry, and asked the Duke of *Hereford* if these were his Words, who answered; "Right Dear Lord they are my Words, and hereof I require Right and the Battel against him."

There was a Knight also that asked Licence to speak for the Duke of *Norfolk*; and obtaining it, began to answer thus; "Right Dear Sovereign Lord, here is *Thomas Mowbray* Duke of *Norfolk*, who answereth and saith, and I for him, That all which *Henry* of *Lancaster* hath said and declared (saying the Reverence due to the King and his Council) is a Lye; and the said *Henry* of *Lancaster* hath falsely and wickedly lied as a false and disloyal Knight, and both hath been, and is a Traytor against you, your Crown, Royal Majesty and Realm. This will I prove and defend as becometh a loyal Knight to do with my Body against his: Right Dear Lord, I beseech you therefore,

1398.
21 Ric. II.

1398.
Ric. II.
"therefore, and your Council, that it
"may please you in your Royal Discre-
"tion, to consider and mark what Henry
"of Lancaster Duke of Hereford, such
"a one as he is, hath said."

The King therefore demanded of
the Duke of Norfolk if these were his
Words; and whether he had any more
to say. The Duke of Norfolk then an-
swered for himself: "Right Dear Sir,
"true it is, that I have received so much
"Gold to pay your People of the Town
"of Calais, which I have done; and I
"do avouch that your Town of Calais
"is as well kept at your Commandment
"as ever it was at any time before, and
"that there never hath been by any of
"Calais any Complaint made unto you
"of me. Right Dear and my Sovereign
"Lord for the Voyage I made into
"France, about your Marriage, I never
"received either Gold or Silver of you,
"nor yet for the Voyage that the Duke
"of Aumale, and I made into Almain;
"where we spent great Treasure. Very
"true it is, that once I did an Ambush
"to have slain the Duke of Lancaster;
"that there lieth, but nevertheless he
"hath pardoned me thereof, and there
"was good Peace made betwixt us, for
"which I yield him hearty Thanks.
"This is that which I have to answer,
"and I am ready to defend my self a-
"gainst my Adversary. I beseech you
"therefore of Right, and to have the
"Battel against him in upright Judg-
"ment."

After this when the King had com-
muned with his Council a little, he com-
manded the two Dukes to stand forth,
that their Answers might be heard. The
King then caused them once again to
be asked if they would agree and make
Peace together, but they both stately an-
swered, that they would not, and with-
al the Duke of Hereford cast down his
Gage, and the Duke of Norfolk took it
up. The King perceiving this Demea-
nour betwixt them, swore by St. John
Baptist, that he would never seek to
make Peace betwixt them again. And
therefore Sir John Busby in Name of the
King and his Council declared, that the
King and his Council had commanded
and ordained, that they should have a
Day of Battel appointed them at Coun-
try; namely the 17th of September. The
King also appointed them Lists, and a
Place of Combat, and thereupon great
Preparation was made.

1398.
Ric. II.

At the time appointed the King came
to Country, where the two Dukes were
ready according to the Order prescribed
therein, coming thither in great Array,
accompanied with the Lords and Gen-
tlemen of their Lineages. The King
caused a sumptuous Scaffold, or Theatre,
and Royal Lists there to be erected and
prepared. The Sunday before they should
fight, after Dinner the Duke of Here-
ford came to the King (being lodged a-
bout a Quarter of a Mile without the
Town, in a Tower that belonged to
Sir William Bagot) to take his Leave of
him, the Morrow after being the Day ap-
pointed for the Combat. About the Spring
of the Day, came the Duke of Norfolk
to the Court to take leave likewise of
the King. The Duke of Hereford
armed him in his Tent that was set
near to the Lists, and the Duke
of Norfolk put on his Armour be-
twixt the Gate and the Barrier of the
Town.

The Duke of Aumale that Day being
High Constable of England, and the Duke
of Surrey Marshal, placed themselves be-
twixt them well armed and appointed,
and when they saw their time, they first
entered into the Lists with a great Com-
pany of Men, apparell'd in Silk Sandall
embroidered with Silver, both richly and
curiously, every Man having a tipp'd
Staff to keep the Field in order. About
the Hour of Prime came to the Bar-
riers of the Lists, the Duke of Here-
ford, mounted on a white Courser, barded
with green and blue Velvet, embroidered
sumptuously with Swans and Antelopes of
Goldsmiths Work, armed at all Points.
The Constable and Marshal came to the
Barriers, demanding of him what he was,
he answered, "I am Henry of Lancaster,
"Duke of Hereford, which am come
"hither to do mine endeavour against
"Thomas Mowbray, Duke of Norfolk,
"as a Traytor, untrue to God, the King,
"his Realm, and me." Then incon-
tinently he swore upon the Holy Evan-
gelists, that his Quarrel was true and just,
and upon that Point he required to enter
the Lists, then he put up his Sword,
which before he held naked in his Hand,
and putting down his Visor, made a Cross
on his Horse, and with Spear in Hand
entered into the Lists, and descended from
his Horse and set him down in a Chair
of green Velvet at the one end of the
Lists, and there reposed himself, abiding
the coming of his Adversary.

S

Soon

Day of
battel ap-
pointed.

1398.
22 Rich. II.

Soon after him, entred into the Field with great Triumph, King *Richard* accompanied with all the Peers of the Realm, and in his Company was the Earl of *St Paul*, who was come out of *France* in Post, to see this Challenge performed. The King had there about 10000 Men in Armour, least some Fray or Tumult might rise amongst his Nobles by quarreling or partaking. When the King was set in his Seat which was richly hanged and adorned, a King at Arms made open Proclamation, prohibiting all Men in the Name of the King, and of the High Constable and Marshal, to enterprize or attempt, to approach or touch, any part of the Lifts upon pain of Death, except such as were appointed to order or marshal the Field; the Proclamation ended, another Herald cried, "Behold here *Henry* of *Lancaster*, Duke of *Hereford*, Appellant, which is entred into the Lifts royal, to do his endeavour against *Thomas Mowbray*, Duke of *Norfolk*, Defendant, upon pain to be found false and recreant."

The Duke of *Norfolk* hover'd on Horseback at the entry of the Lifts, his Horse being barded with crimson Velvet, imbroidered richly with Lyons of Silver and Mulberry Trees, and when he had made his Oath before the Constable and Marshal, that his Quarrel was just and true, he entred the Field manfully, saying aloud, God aid him that hath the right, and then he departed from his Horse, and set him down in his Chair, which was of crimson Velvet, courtined about with white and red Damask; the Lord Marshal viewed their Spears to see that they were of equal length, and delivered the one Spear himself to the Duke of *Hereford*, and sent the other unto the Duke of *Norfolk*, by a Knight. Then the Herald proclaimed, that the Traverfes and Chairs of the Champions should be removed, commanding them on the King's behalf to mount on Horseback, and address themselves to the Battel and Combat.

The Duke of *Hereford* was quickly horsed, and closed his Beaver, and cast his Spear into the rest, and when the Trumpet sounded, set forward courageously towards his Enemy six or seven Paces. The Duke of *Norfolk*, was not fully set forward when the King cast down his Warder, and the Heralds cried, *Ho, ho*. Then the King caused their

Spears to be taken from them, and commanded them to repair again to their Chairs, where they remained two long Hours, while the King and his Council deliberately consulted what order was best to be had in so weighty a Cause. Finally after they had devised and fully determined what should be done therein, the Heralds cried *Silence*, and Sir *John Busby*, the King's Secretary, read the Sentence and Determination of the King and his Council in a long Roll, the effect whereof was, That *Henry* Duke of *Hereford*, should within fifteen Days depart out of the Realm, and not to return before the Term of ten Years were expired, except by the King he should be repealed again, and this upon pain of Death; and that *Thomas Mowbray*, Duke of *Norfolk*, because he had sown Sedition in the Realm by his Words, should likewise avoid the Realm, and never return again into *England*, nor approach the Borders or Confines thereof upon pain of Death; and that the King would stay the profits of his Lands, till he had levied thereof such Sums of Money, as the Duke had taken up of the King's Treasurer, for the Wages of the Garrison of *Calais*, which were still unpaid.

When these Judgments were once read, the King called before him both the Parties, and made them to swear, that the one should never come in Place where the other was, willingly, nor keep any Company together in any foreign Region, which Oath they both received humbly and so went their ways. The Duke of *Norfolk*, departed sorrowfully out of the Realm into *Almane*, and at the last came to *Venice*, where he for Thought and Melancholy deceas'd; for he was in Hopes (as Writers record) that he should have been born out in the matter by the King, which when it fell out otherwise, it grieved him not a little. The Duke of *Hereford* took his leave of the King at *Eltham*, who there released four Years of his Banishment, so he took his Journey over unto *Calais*, and from thence went into *France*, where he remained till the next Year; when he returned to *England*, deposed King *Richard* and mounted his Throne, being the first King of *England* of the House of *Lancaster*, as will appear more at large hereafter in the Proceedings against *Richard* II.

1398.
22 Rich. II.Both the
Dukes banished.

Proceedings against JOHN BADBY, Taylor, before John Badby. THOMAS Bishop of Worcester at Worcester, and afterwards before THOMAS ARUNDEL, Archbishop of Canterbury, the Archbishop of York, the Chancellor of England, and many other Lords Spiritual and Temporal for Heresy at London. Anno. 1399. 1 HEN. IV.

1399.
1 Hen. IV.
The Charge
against him.

THE said John Badby, appearing on the second Day of January 1409, in St Thomas's Chappel in Worcester, before the Bishop of the said Dioceſe, was charged with maintaining, that the Sacrament of the Body of Chriſt, conſecrated by the Prieſt upon the Altar, is not the true Body of Chriſt by the Virtue of the Words of the Sacrament: But that after the Sacramental Words ſpoken by the Prieſt to make the Body of Chriſt, the material Bread doth remain upon the Altar as in the beginning, neither is it turned into the very Body of Chriſt after the Sacramental Words ſpoken of the Prieſt; which John Badby being examined, and diligently demanded by the aforeſaid Reverend Father concerning the Premiſſes, in the end did answer, that it was impoſſible that any Prieſt ſhould make the Body of Chriſt, and that he believed firmly, that no Prieſt could make the Body of Chriſt by ſuch Words Sacramentally ſpoken in ſuch ſort; and alſo he ſaid expreſſly, that he would never while he lived, believe that any Prieſt could make the Body of Chriſt Sacramentally, unleſs that firſt he ſaw manifeſtly the like Body of Chriſt, to be handled in the Hands of the Prieſt upon the Altar in his corporal Form. And farthermore, he ſaid that John Raker of Briſtol, had as much Power and Authority to make the like Body of Chriſt, as any Prieſt had. Moreover he ſaid, that when Chriſt ſat at Supper with his Diſciples, he had not his Body in his Hand, to the intent to diſtribute it to his Diſciples, and he ſaid expreſſly, that he did not this thing.

Confessed.

And reſuſing to renounce theſe Opinions, the ſaid Biſhop pronounced the Priſoner an Heretick, and certified his Offence to the Archbishop of Canterbury, who thereupon examined Badby in the Convent of the Preaching Friars in London, on Sunday the firſt of March 1409. And the Priſoner perſiſting to avow the Doctrines aforeſaid, before the ſaid Archbishop, and great numbers of Spiritual and Temporal Lords, he confirmed the Sentence of the Biſhop of Worcester, and Badby was thereupon delivered over to the civil Magiſtrate; but the Archbishop conjured the Chancellor and the other Temporal Lords, that they ſhould not ſuffer the Priſoner to be put to Death, which being underſtood as it was intended it ſhould, the King's Writ was obtained, and Badby was ſent to Smithfield to be burnt that very Afternoon, where the Prince of Wales (afterwards King Henry V.) being preſent, and moved at the miſerable Spectacle, endeavoured to perſuade Badby to renounce his Opinions, promiſing if he did, that he ſhould be amply rewarded; which the Priſoner reſuſing, he was put into a Pipe or empty Caſk, to which other dry Fewel being added, the Executioner ſet fire to it, and the Sufferer feeling the flames, cry'd to God to have Mercy upon him. The Prince apprehending he cried to him for Mercy, ordered the Fire to be removed, and made him freſh offers of Life, and great Rewards if he would recant: but the brave Martyr reſuſed Life upon thoſe Terms, and the Fire being kindled again, he was burnt to Aſhes.

1399.
1 Hen. IV.
Pronounced
an Heretick.

Delivered to
the Sheriff.

Burnt.

John Hall. **Proceedings against JOHN HALL, for the Murder of the Duke of Gloucester. Anno 1399. 1 HEN. IV.**

1399.
1 Hen. IV.
Attainted.

AT a Parliament or rather Convention holden in the first Year of this Reign, great enquiry was made after the Murderers of the late Duke of Gloucester, and *John Hall*, confessing himself guilty of the Fact, was attainted by Parliament, drawn to the Gallows at Tyburn, and there hanged and quartered; his Head being afterwards sent to *Calais*, where the Duke was murdered.

How *Hall* came to be attainted as Traitor by Parliament, when he might have been proceeded against in the ordinary Courts of Justice, on his own Confession, is not easy to account for, any more than his being attainted of Treason, when his Offence seems to have been no more than Murder, unless it was Treason, in those Days to conspire the Death of any of the Royal Family.

1399.
1 Hen. IV.

K. Rich. II.
Dukes of
Exeter, Surrey,
Albemarle, Somerset,
Earl of Gloucester,
&c.

Proceedings against King Richard II. and against the Dukes of Exeter, Surrey, Albemarle and Somerset; the Earl of Gloucester, and several other Noblemen in Parliament, with the illegal and arbitrary Executions of the said Noblemen, and the Murder of King Richard II. Anno 1399. 1 HEN. IV.

1399.
1 Hen. IV.
Deprived of their Honours and Estates.

THE same Parliament which attainted *Hall*, proceeded to call such of the Peers to account, as appeared to have been concerned in the Prosecution of the late Duke of Gloucester, and in some other violent Measures in the late Reign, and whereas King Richard had created *John Holland*, Earl of Huntington, Duke of Exeter; *Thomas Holland*, Earl of Kent, Duke of Surrey; *Edward*, Earl of Albemarle, Duke of Albemarle; *John Beaufort*, Earl of Somerset, Duke of Somerset; and the Lord *Thomas Spencer*, Earl of Gloucester, and had distributed the Estates of the Duke of Gloucester, and the other impeached Lords among them, they deprived them both of the Honours and Estates conferred on them on that occasion; and the Earl of Salisbury, and the Lord Morley, two others of King Richard's Council, who were supposed to have some concern in the Duke of Gloucester's Death, were imprisoned for some time.

The Commons also petitioned that the late King Richard, might be tried openly as a common Malefactor; but neither King Henry, nor the Lords would admit of this, not only because they wanted Proof of the Charge that had been exhibited against the late King, but they were not yet sunk so low in their Notions of the Constitution, as to apprehend they had a right to erect a Court of Justice for the Trial of their Sovereign.

Doctor *Merk*, Bishop of Carlisle, in this Debate represented that they had gone two great lengths already, that they had indeed no Authority to depose King Richard, or advance the Duke of Lancaster to the Throne. This was not an Elective Kingdom, or the Supreme Power lodged in the People. The King's Supremacy was universally acknowledged, which was ridiculous if there was a Power to which he was subject and accountable.

However, it was resolved that King Richard should remain closely confined, and

1399.
1 Hen. IV.
The Commons petition that King Richard may be tried.

Resolutions thereupon.

1399.
Hen. IV.

and that if any attempt should be made to restore him, he should be put to Death without Trial; and King Richard was soon after removed from the Tower, to Leeds Castle in Yorkshire, and from thence to Pontefract Castle.

A Conspiracy of the deprived Lords in favour of the deposed King

The Lords who had been degraded and dispossessed of their Estates by the Convention, in the manner above related, entered into a Conspiracy with divers others against King Henry, as soon as the Parliament was up; and in order to get King Henry into their Power, they agreed that the Duke of Exeter should challenge the Earl of Salisbury, to engage him in a Tournament at Oxford in Christmas Holydays, and that King Henry should be invited to sit Judge of the Combat, when they presumed he would easily be made Prisoner by their numerous Followers and Adherents. They executed an Indenture also, in which it was specified what number of Men should be raised, and what Share the respective Conspirators should have in the attempt; after which they took an Oath of Secrecy and separated. And the Duke of Exeter having invited King Henry to be present at the intended Tournament, he had given his Consent to it.

Accordingly the Conspirators with large Retinues resorted to Oxford at the time appointed; the Duke of Albemarle only was wanting, who went to Langley to pay a Visit to his Father the Duke of York in his way thither. While he was at Dinner at Langley, the Duke of York observing the Libel of a Indenture in his Son's Bosom, demanded what it was; to which Albemarle gave some slight answer: but discovering at the same time a more than ordinary concern, the old Duke snatched it from him, and finding it was one of the parts of the Deed the Conspirators had entered into, he immediately took Horse and rode towards Windsor with it; but his Son mounting immediately after, found means to get to Windsor before his Father, and had made a Discovery of the Plot, and got the King's Pardon before the Duke of York arrived, which it is highly probable the Father did not endeavour to prevent, if he did not advise it.

King Henry being apprized of his Danger, immediately issued out Commissions of Array, and summoned all his Friends to attend him. The Lords at Oxford in the mean time understanding that the Plot was discovered, dressed up

the Chaplain Magdalen, in a Habit resembling King Richard's usual Dress, and pretended he had made his Escape from Pontefract, which soon increased their Numbers to 40,000 Men, with whom they marched directly to Windsor, in Hopes of surprizing King Henry there; but he was retired to London a few Hours before they arrived. And here the Conspirators being divided in their Opinions, whether they should march into Yorkshire and set King Richard at Liberty, or follow King Henry to London, they wasted a great deal of time in these disputes, and many of their Friends deserted them. In the mean while King Henry having raised considerable Forces, they thought fit to retire first to Reading, and afterwards to Cirencester, giving out that King Richard was at the Head of an hundred thousand Men in Yorkshire, and no longer made use of the Counterfeit Magdalen.

This Retreat proved fatal to the Conspirators, their Party daily diminished, while that of Henry's increased; and those that remained about them were in the utmost Consternation: which the Mayor of Cirencester observing, assembled 3 or 400 stout Fellows, and attacked the two Inns where the Lords were quartered in the Night time, and took the Duke of Surry and the Earl of Salisbury Prisoners, and struck off their Heads without waiting for Orders from his Superiors. The Duke of Exeter, and the Earl of Gloucester indeed made their Escape out of the Town, but coming into their Camps, they found that all their Troops were dispersed and fled, upon a report that King Henry was arrived at Cirencester.

The Earl of Gloucester, was afterwards taken in Wales, and the Duke of Exeter in Essex, and both their Heads struck off without any Form of Law. The Chaplain Magdalen was taken in Scotland, and sent up to London, where he was executed as a Traytor; and there were between twenty and thirty Noblemen and Gentlemen besides convicted and executed at Oxford as Traytors. As to the Bishop of Carlisle, it appears by the Acts of State in Rymer, that he was pardoned, but so fatigued in the Marches and Countermarches with the disaffected Lords, that he was taken ill of a Fever and died soon after the Insurrection was suppressed; and King Henry finding the Nation so well affected towards King Richard, suffered that Prince to live but a very little longer: he is generally supposed

1399.
Hen. IV.

The Duke of Surry, and Earl of Salisbury, beheaded by the Mob.

The Duke of Exeter, and Earl of Gloucester, beheaded without Trial.

Twenty Noblemen and Gentlemen were executed.

King Richard murdered.

1399.
1 Hen. IV.

posed to have been famished with Hunger and Cold, no Marks of Violence appearing on the Corps; which was exposed for several Days in *St Paul's Church*, that the People being assured of his Death, might raise no more Tumults for his Deliverance. Some indeed relate that King *Henry* letting fall some Words expressing how acceptable a piece of Service it would be to him to destroy King *Richard*, Sir *Pierce Exton* carried down with him eight other Assassins to *Pontefract Castle*, and falling upon the King while he was at Dinner, they dispatched him with their Weapons. It is added, that his Highness shewed extraordinary Courage and Resolution in his Defence, snatching an Halbert out of the Hands of one of the Murderers, and killing four of their Number before he was mortally wounded; but however that was, there is very little room to doubt he came to an untimely end: 1. Because it happened immediately after the Insurrection, and in Pursuance of the Resolutions of the Houses, to destroy him if any Attempt was made for his Restauration. 2. But principally; because the Occasion of his Death was never enquired into by the Government, though the

Ministry were every where charged with the Parricide both at Home and Abroad. His Corps was first interr'd privately at *Langley* in *Hertfordshire*, but afterwards removed to *Westminster Abbey*.

In the third Year of this Reign, King *Henry* caused eight Monks, and Sir *Roger Clarendon*, natural Son to the Black Prince, with many more to be hanged, for affirming that the late King *Richard* was living.

A Rebellion being raised in the North, in the 6th Year of this Reign, by *Thomas Mowbray* Earl Marshal of *England*, *Dr Scroop* Archbishop of *York*, and other Noblemen; and the King's General, the Earl of *Westmoreland*, finding himself too weak to make Head against the Rebels, invited the said Lords to a Conference, promising them Security for their Persons, and that all their Grievances should be redressed; by which means he prevailed on them to dismiss their Forces. But the King had so little regard to the Treaty his General had made, that he caused the Heads of the Earl Marshal and the Archbishop to be struck off at *Pontefract*, without allowing them the Benefit of a Trial.

1399.
1 Hen. IV.

Sir *Roger Clarendon* and eight Monks were hanged.

The Earl Marshal and the Archbishop of *York* beheaded without Trial.

Sautree.

Proceedings against WILLIAM CHARTRIS, alias SAUTREE, Parish Priest of the Church of St Edisk the Virgin in London, for Heresy, before THOMAS ARUNDEL, Archbishop of Canterbury, and his Council Provincial at the Chapter House of St Paul's. Anno 1400.
2 HEN. IV.

1400.
2 Hen. IV.

Articles preferred against him.

THE Articles preferred against the said *Sautree*, were of the following Tenor.

1. Item, He saith he will not worship the Cross on which Christ suffered, but only Christ that suffered upon the Cross.
2. Item, That he would sooner worship a temporal King, than the aforesaid wooden Cross.
3. Item, That he would sooner worship the Bodies of the Saints, than the very Cross of Christ on which he hung, if it were before him.
4. Item, That he would rather worship a Man truly contrite, than the Cross of Christ.

5. Item, That he is bound rather to worship a Man that is predestinate than an Angel of God.

6. Item, That if any Man would visit the Monuments of *Peter* and *Paul*, or go on Pilgrimage to the Tomb of *St Thomas*, or any whither else, for the obtaining any Temporal Benefit, he is not bound to keep his Vow, but he may distribute the Expences of his Vow in Alms upon the Poor.

7. Item, That every Priest and Deacon is more bound to preach the Word of God, than to say the Canonical Hours.

8. Item, That after the pronouncing of the Sacramental Words of the Body of Christ,

1440.
2 Hen. IV.

1400.
Hen. IV.

Christ, the Bread remaineth of the same Nature that it was before, neither doth it cease to be Bread.

A Copy of which Articles being given the Prisoner, and time to answer them at his Request, he made the following Answer to them in Writing.

I *William Sautree*, Priest, unworthy, say and answer, That I will not, nor intend not to worship the Cross whereupon Christ was crucified, but only Christ that suffered upon the Cross; so understanding me, that I will not worship the material Cross, or the gross corporal Matter: Yet notwithstanding I will worship the same as a Sign, Token, and Memorial of the Passion of Christ, *Adoratione vicaria*: And that I will rather worship a temporal King, than the aforesaid wooden Cross, and the material Substance of the same. And that I will rather worship the Bodies of Saints, than the very Cross of Christ whereon he hung, with this Addition, that if the very same Cross were afore me, as touching the material Substance. And also that I will rather worship a Man truly confessed and penitent, than the Cross on which Christ hung, as touching the material Substance.

And that also I am bound, and will rather worship him whom I know to be predestinate, truly confessed and contrite, than an Angel of God: for that the one is a Man of the same Nature, with the Humanity of Christ, and so is not a blessed Angel. Notwithstanding I will Worship both of them, according as the Will of God is I should.

Also, that if any Man hath made a Vow to visit the Shrines of the Apostles *Peter and Paul*, or to go on Pilgrimage unto *St Thomas's Tomb*, or any where else, to obtain any temporal Benefit or Commodity, he is not obliged to keep his Vow upon the Necessity of Salvation, but he may give the Expences of his Vow in Alms amongst the Poor, by the prudent council of his Superiours, as I suppose.

And also I say, that every Deacon and Priest is more bound to preach the Word of God, than to say the Canonical Hours, according to the Primitive Order of the Church.

Also touching the Interrogation of the Sacrament of the Altar, I say that after the pronouncing of the Sacramental Words of the Body of Christ, there ceaseth not to be very Bread simply, but remaineth Bread, holy, true, and the

Bread of Life; and I believe the said Sacrament to be the very Body of Christ, after the pronouncing of the Sacramental Words.

The said *William Sautree* being afterwards farther examined, and persisting in in these Opinions, the said Archbishop by the consent of his said Council, did pronounce and give Sentence by the Mouth of *Robert Hall*, in the manner following,

In the Name of God, Amen. We Thomas by the Grace of God Archbishop of Canterbury, Primate of England, and Legate of the See Apostolical, by the Authority of God Almighty, and blessed St Peter and Paul, and of holy Church, and by our own Authority sitting for Tribunal, or Chief Judge, having God alone before our Eyes, by the Council and Consent of the whole Clergy, our Fellow Brethren and Suffragans Assistants unto us, in this present Council Provincial, by this our Sentence definitive, do pronounce, decree, and declare, by these Presents, that William Sautree, otherwise called Chawtrey, Parish Priest presented, personally appearing before us, in and upon the Crime of Heresy, judicially and lawfully convicted, as an Heretick, and as an Heretick to be punished.

It appearing also that the said *Sautree* had formerly recanted these Opinions before the Bishop of *Norwich*, and relapsed into them again, Sentence of Relapse also passed upon him. After which he was first degraded and then delivered over to the Secular Power, and the King's Writ obtained for the burning him, being of the following Tenor, *Viz.*

The Decree of our Sovereign Lord the King and his Council in Parliament, against a certain new sprung up Heretick.

To the Mayor and Sheriffs of London, &c. Whereas the Reverend Father Thomas Archbishop of Canterbury, Primate of all England, and Legate of the Apostolick See, by the Assent, Consent, and Council of other Bishops, and his Brethren Suffragans, and also of all the whole Clergy within his Province or Diocese, gathered together in his Provincial Council, the due order of the Law being observed in all points in this behalf, hath pronounced and declared by his definitive Sentence, William Sautree, sometime Chaplain, fallen again into his most damnable Heresy; the which before time, the said

William

1400.
Hen. IV.

Sentence pronounced on the Prisoner.

The Writ for burning him.

1400.
2 Hen. IV.

William had abjured, thereupon to be a most manifest Heretick; and therefore hath agreed that he should be degraded, and hath for the same Cause really degraded him from all Prerogative and Privilege of the Clergy, decreeing to leave him unto the Secular Power; and hath really so left him, according to the Laws and canonical Sanctions, set forth in this behalf; and also that our Holy Mother the Church, hath no farther to do in the Premises. We therefore being Zealous in Religion, and Reverend Lovers of the Catholick Faith, willing and minding to maintain and defend the Holy Church, and the Laws and Liberties of the same, to root all such Errors and Heresies out of our Kingdom of *England*, and with condign Punishment to correct and punish all Hereticks, or such as be convict: Provided always that both according to the Law of God and Man, and the Canonical Institutions in this behalf accustomed, such Hereticks convict and condemned in Form aforesaid, ought to be burned with Fire. We command you as strictly as we may, or can, firmly enjoying you, that you

do cause the said *William*, being in your Custody, in some publick or open Place within the Liberties of your City aforesaid, (the Cause aforesaid being published unto the People) to be put into the Fire, and there in the same Fire really to be burned, to the great horror of his Offence, and the manifest example of other Christians. Fail not in the Execution hereof, upon the Peril that will fall thereupon: *Teste, rege, apud West. 26. Febr. an. regni sui. 2 do.*

The said *William Sautree* being afterwards burnt in pursuance of this Writ, Mr *Fox* makes the following remark thereupon. *Viz.*

"As King *Henry* the Fourth, who was the Depositor of King *Richard*, was the first of all *English* Kings that began the unmerciful burning of Christ's Saints for standing against the Pope; so was this *William Sautree*, the true and faithful Martyr of Christ, the first of them in *Wickliff's* time, which I find to be burned in the Reign of the aforesaid King, which was in the Year of our Lord 1400."

1400.
2 Hen. IV.

Earl of Cambridge, Sir Thomas Grey, and Sir Henry Scrope.

Proceedings against RICHARD PLANTAGENET Earl of Cambridge, Sir THOMAS GREY, and HENRY LORD SCROPE, Lord Treasurer, for High Treason. Anno 1415.
3 HEN. V.

1415.
3 Hen. V.
The Charge against them.

THE Indictment set forth that the said *Richard* Earl of Cambridge of Connesburgh, in the County of York, Knight, and *Thomas Grey* of Heton, in the County of Northumberland, Knight, on the 20th of July, in the third Year of the King, at Southampton, and at divers other Times and Places within this Realm, had treasonably conspired, with others their Accomplices, to carry the Lord *Edmund* Earl of March, into Wales, and invite him to take upon him the Government of the Realm, in Case King *Richard* II. was dead, and had purposed to publish a Proclamation in Wales in the Name of the said Earl of March, as Heir to the Crown against King *Henry*, by the Name of *Henry* of

Lancaster, the Usurper, in order to draw in great Numbers of the King's Liege People, to follow the said Earls. And that the said Earl of Cambridge, and Sir *Thomas Grey* had appointed certain of the King's Liege People to repair into Scotland, and bring from thence one *Thomas Trampington*, and another Person resembling in Shape and Countenance King *Richard*, and *Henry Pierry* together with a great number of People to fight with the King; and many other Treasons had conspired in order to destroy the King and his Brethren the Dukes of Bedford and Gloucester, and other great Lords and Peers of the Realm; and that the said *Henry Scrope* was privy and consenting to the said Treasonable Conspiracies against the

1415.
3 Hen. V.

1415.
3 Hen. V.
Convicted.

the King's Peace, his Crown and Dignity.

The Prisoners being brought to their Tryal at *Southampton* before the King in Person, and a select number of Peers, were convicted of the said Treasons, as well by the Testimony of *Edmund Earl of March*, whom they intended to have advanced to the Throne, as by their own Confession, and Sentence was pronounced on them as Traytors; however the King pardoned all the Sentence but beheading, as to the Earl, and *Sir Thomas Grey*. And the Head of the Earl of *Cambridge* after the Execution was permitted to be buried with his Body. *Sir Henry Scroop* was hanged, drawn and quartered, and his Head set upon

Executed.

one of the Gates of *York*, as that of *Sir Thomas Grey* was upon one of the Gates of *Newcastle*.

The Conspirators it seems held a Correspondence with *France* at this time, from whence they were supplied with a considerable Sum of Money in order to enable them to make a Diversion on this side the Water, while the King was engaged with his Enemies on the other; and had concerted Measures, our Historians suggest, to betray the King into the Hands of the *French*, or cut him off while he was in the Field.

The abovesaid *Richard Earl of Cambridge*, was the Father of *Richard Duke of York*, and Grandfather of King *Edward IV*.

1415.
3 Hen. V.

Correspondence between the *French* Court, and the Conspirators.

Proceedings against JOHN NIANSER, JOHN BENNET, &c.
Anno 1414, and 1416. 2 and 4 HEN. V.

John Nian-
ser, &c.

1416.
4 Hen. V.
The Charge
against them.

JOHN Nianser Esq; with nine of his Servants, assaulted and murdered *John Tilbey Clerk*, Archdeacon of *Huntington*, and Chancellor to the then Queen Dowager, in the Streets of *London*, and being pursued, he and four of his Men took Sanctuary in *St Ann's Church* within *Aldersgate*, from whence the Superstition of those Times would not suffer them to be taken, but the Church being so barricadoed up, and surrounded with Guards, that they could not escape from thence, they consented to abjure the Kingdom, and remain the rest of their

Lives in Banishment. Whereupon they were permitted to pass through the City towards *Calais* in their Shirts and Breeches, only each of them having a Cross in his Hand, and a Purse about his Neck.

John Bennet of *London Woolcomber*, was convicted of High Treason, in dispersing Seditious Libels; and a Parchment-maker of *Turnmil Street*, of harbouring *Sir John Oldcastle*, who stood attainted of High Treason; for which the said *John Bennet* and the other Prisoner were condemned and executed as Traytors, on the 8th of October, 1416, 4 Hen. V.

1416.
4 Hen. V.

John Bennet,
&c. charged
with Treason, and executed.

Proceedings against the Lord STRANGE, and Sir JOHN TRUSSEL, for a Riot and Prophanation of a Church in time of Divine Service. Anno 1417. 5 HEN. V.

Lord Strange
and Sir John
Trussel.

1417.
5 Hen. V.
The Case.

THE Case was this, The Wives of the Lord *Strange*, and *Sir John Trussel*, having quarrelled about Place, or some such Trifle; and their Husbands meeting at the Church of *St Dunstan* in the *East* on *Easter Day*, in the time of Divine Service, had so little regard to the Sacredness of the Place, or the Devotions of the Priest, and the Congregation on that solemn Festival, that they furiously engaged each other; and being seconded by their respective Servants and Dependants, the Church was in

the utmost Confusion, several People were wounded, and one of the Parishoners killed outright, in endeavouring to part the Combatants: But at Length the Tumult was appeased, and the Offenders committed to the Counter. And the Archbishop being informed of the Fray, excommunicated the Lord *Strange* and his Wife, with their Servants, who were found to be the Aggressors, and ordered Divine Service to be suspended in that Church, till it was consecrated afresh.

1417.
5 Hen. V.

U

On

1417.
5 Hen. V.
They do Pen-
ance.

On the First of May following, the Offenders being brought before the Archbishop in St Paul's Church, they submitted to do Penance, and took their Oaths to perform it in such manner as it was enjoined, (*Viz.*) That immediately all their Servants should in their Shirts go from St Paul's to St Dunstan's Church, and that the Lord Strange should also go bareheaded, and his Lady barefooted thither, Reginald Kenwood Archdeacon

following them. And at the Consecrating the said Church which they had prophaned, the Lady should fill all the the Vessels with Water, and offer on the Altar an Ornament of Ten Pounds Value, and his Lordship a Pix of Silver of Five Pounds Value: His Lordship having before made Satisfaction to the Widow of the Person killed in the Tumult; and thereupon they all received Absolution.

1417.
5 Hen. V.

Sir John
Mortimer.

Proceedings against Sir JOHN MORTIMER Cousin to the
Earl of March, for High Treason. Anno 1424.
3 HEN. VI.

1424.
3 Hen. VI.
The Charge

THE Treasons the said Sir John Mortimer was charged with, were his conspiring with William King, Servant to the Governor of the Tower, (where Sir John had been long imprisoned on Suspicion of Treason) to break out of Prison, and promising the said William King Ten Pounds in Money, and Lands of the Value of forty Pounds *per Ann.* to assist in his Escape: That he had told the said William he would go into Wales to the Earl of March, and there would raise forty thousand Men; with which Army he would invade the Kingdom, and strike off the Heads of the Protector, and the Bishop of Winchester. And farther, that Sir John said the Earl of March was but a Daw, though he was the greatest of Royal Blood, and ought to be King by right of Inheritance, and that he himself (Sir John) was next Heir to the Crown after the Earl of March; and if the Earl would not mount the Throne he would. And further that Sir John added, if he could not join the Earl of March, he would sail over to

the Dauphin in France, and take his part, where he knew he should be well received and assisted to bring about his Designs: And that the said Sir John Mortimer afterwards made his Escape out of the Tower, and was retaken upon the Tower Wharf, after an obstinate Resistance, being grievously wounded in the Skirmish.

1424.
3 Hen. VI.

Sir John the next Day after he was re-taken, was carried before the Parliament then sitting at Westminster, and attainted of High Treason upon the Evidence of the said William King, and was afterwards drawn to Tyburn, where he was hanged and beheaded, but suffered to be buried in the Grey Friars Church without quartering: Upon which Execution our Historians relate there was great murmuring among the People; probably because they looked upon the Charge as a pure Fiction, and because he was condemned so suddenly and illegally, before any Indictment found against him, and upon the Testimony of one Witness.

Upton and
Down, Trial
by Battel.

A Trial by Battel between JOHN UPTON and JOHN DOWN,
Gent. Anno 1424. 3 HEN. VI.

1424.
3 Hen. VI.

ON the 24th of January, 1424, John Upton Appellant having charged John Down Gent. Defendant, with conspiring to kill the King on the

Day of his Coronation, a Battel was fought between them in Smithfield in the King's Presence, and by his Appointment (according to the Custom of those Times)

1424.
3 Hen. VI.

when

1424.
Hen. VI.

when there were no other Witnesses of the Charge, but the Accuser or Appellant. And the Engagement having continued a considerable time without any

apparent Superiority on either side, the King commanded the Combatants to be parted and set at Liberty.

1424.
3 Hen. VI.

*Proceedings against JOAN of Arque, usually called the Pu-
celle, or Maid of Orleans, for Witchcraft, &c. before
PETER CAUCHON Bishop of Beauvais. Anno 1430.
8 HEN. VI.*

Joan of Ar-
que.

1430.
Hen. VI.

The Charge
against her.

THE Articles preferred against the Prisoner, *Joan of Arque*, were,
1. That she had disguised her Sex, imitating a Man in her Actions and Apparel.
2. That like a faithless Wretch she had been a damnable Instrument of Slaughter, and Blood-shed, partly committed by her, and partly carried on by her Directions.
3. That she had greatly seduced the People, by pretending, that she was sent from God, and vending many false Revelations in his Name.
4. That she was a Sorceress and a Witch, foretelling things to come by her Diabolical Arts and Skill.
5. That she had dissuaded *Charles the French King* from Peace with *England*, and so had been the Cause of the Wars for several Years: That she had boasted that she knew Things to come, and particularly had published the certain Downfall of the *English Power in France*.
7. That she had asserted, that the Saints conversed with her, and had been seen with her by the King of *France* himself, the Duke of *Bourbon*, and two or three other Lords.
8. That she had so seduced the People, as that many abused by her Hypocrisy and feigned Devotion, worshipped her as a Saint.

Her Defence.

To this Charge the Historian only relates, she answered sometimes gravely and soberly, and sometimes foolishly; but that *Giles* her principal Advocate observed in her Defence, *That though in Visions and Revelations she had shewed herself too Superstitious, and in the Levity of her Answers had discovered the Weakness of her Sex, yet it did not appear that the Siege of Orleans was raised, or King Charles brought to his Crown by means of the Devil, or any Witchcraft of hers.*

Her Confes-
sion.

Joan observing however that the Court were inclined to condemn her, with much seeming Sorrow confessed her Offences,

and begged for Mercy, which she obtained as to her Life, but the following Sentence was pronounced against her, (*Viz.*) *That from thenceforth, she should cast off unnatural wearing of Mens Garments, and other Habiliments, and keep herself to such a Garb as is suitable and proper to her Sex: That she should abjure her pernicious Practice of Sorcery and Witchcraft, and all the other Evils which she had committed contrary to the true Religion: That she should be kept in perpetual Imprisonment, being fed with Bread and Water, that she might with a strict Penance bewail her former Misdeeds.* This Sentence being much milder than what she had reason to fear from an Enemy, to whom she had done so much Mischief, she gladly submitted to it, and took an solemn Oath punctually to perform it. But the Devil (*says the Historian*) had too great a Power upon her to be so easily vanquished; what she had promised was only for fear of Suffering not through Conscience of her Wickedness, and therefore as soon as her fear was removed, she fell again to her old Tricks of pretending Revelations, and foretelling future Events, by the familiar Converse she had with evil Spirits, which she called by the Names of our Lady, *St Katherine*, and *St Ann*, who (as she said) brought her thence from God. These Things being heard of by the Regent, he caused her again to be brought to the Bishop, and tried as a Person relapsed into the former Wickedness; of which being found guilty, she was resigned to the Secular Power, and condemned to be Burnt as a Witch. This unavoidable Sentence of Death, fully discovered the Falseness of her Pretensions to any Divine Inspirations: For whereas such Persons joyfully suffer Death, rather than save themselves by the least Sin, she did not stick

1430.
8 Hen. VI.

Her Sen-
tence.

1430.
8 Hen. VI.

stick to bely herself, by affirming that she was with Child, and consequently (not being married) to be guilty of Whoredom, that she might put off the Execution of so severe a Sentence. The Regent though he looked upon it as a false pretence, which might have been easily removed by the common Methods, yet chose rather to respite her Punishment for nine Months, that this Lie being discovered he might convince the World, that she was actuated by a lying Spirit all along; for so indeed it happened, that she was not with Child: Whereupon her Sentence of Condemnation being again pronounced upon her, she was in the Old-Market-Place of Roan burnt to Ashes, which being cast up into the Air were dispersed by the Wind. *Valeran Veran*, a French Poet, relates two Miracles at her Death, which as he imagines cleared her Innocency, viz. *That her Heart remained unburnt in the Flames, and that a white Dove came out of her Ashes, and flew up towards Heaven*; but as this is not related by any Historian of Credit, either French or English, it seems to be a mere Poetical Fiction invented long after, to justify the Pope's Absolution of her, from the Sentence of Condemnation the English passed on her, which King Charles obtained of Pope Calixtus, twenty six Years after her Death, when the English were quite expelled France; for though her Actions were too scandalous to bear a Canonization, yet he thought it not fit to let her lie under so ignominious a Brand; she must not however be denied her just Praise, that she was a brave and valiant Amazon, the Restorer of the French Monarchy, who if she did not drive out the English, as she vaunted, herself, yet certainly was the chief Cause that the English lost France.

The bringing this Impostor upon the Stage, was a Politick Contrivance of some of the French Ministers or Generals, who found their Forces so dispirited, that they could not be prevailed on to engage the English, though their Superiority in Numbers were ever so great; they hit therefore upon this lucky Expedient to revive the Courage of their Troops.

Her History.

They brought this young Maid in whom they observed a masculine Courage, from the Confines of Lorraine to the Dauphin's Court, pretending she was sent from Heaven to deliver Orleans (now besieged by the English); they had taught her the Exercise of Arms, and instructed

her in Military Discipline, which she was supposed to have by Inspiration. The Court as well as common People believed or pretended to believe, she was sent from Heaven for their Protection, and every Soldier desired to March under her Colours to the Relief of Orleans. Charles hereupon detached fourteen or fifteen thousand Men, under the Command of his most experienced Generals, to Orleans, who found no Difficulty in entering the Town, on that side that was open to them; which was however looked upon as a most daring Enterprize, and the Success of it deemed miraculous by Charles's Party. And now the Garrison being almost three times the Number of the Besiegers, they ventured with the Holy Maid at the Head of them, to attack the Forts and Redoubts in which the English had fortified themselves, and carried several of them, which was ascribed to the Divine Power that every where attended this Virgin; certain it is the English being out of all Hopes of taking Orleans, raised the Siege and marched off in good Order with eight or ten thousand Men, being all the Forces they had there, on the twenty eighth of May; and though their Number was so very small, the Courage of the French was not yet so far raised as to venture to attack them in their Retreat.

The raising the Siege of Orleans, however, gave the Maid a mighty Reputation, and the Duke of Alençon defeating a Detachment of the English Troops at *Pattai*, where the Lords Talbot and Seale were made Prisoners, as the Earl of Suffolk had been a little before in the Town of *Gergeau*, confirmed the People in the Divinity of her Commission; and the French who had taken the Oaths to King Henry, made no scruple to come over to Charles's Party, pretending they were absolved from their Oaths by Heaven itself, which had wrought so many Miracles by the Hands of the Holy Maid, to convince them of their Duty to Charles their natural Sovereign.

The Dauphin finding his Affairs so much improved by means of this Impostor, was prevailed on by her to march cross the Country as far as Rheims, to be crowned a second time; this being the City where the French Monarchs usually are anointed: and this still gave him a greater Reputation, many Cities immediately declared for him, and it was with difficulty the Regent maintained himself in Paris.

But

1415.
3 Hen. V.

1430.
Hen. VI.

But after these and many other successful Enterprizes, this Heroick Maid was taken Prisoner, in a Sally she made in the Year 1429, at the Head of a French Party, from the Town of *Compeigne*, then besieged by the *English*; and upon an Address from the University of *Paris*, to the Duke of *Bedford*, then Regent of *France*, that she might be delivered up to the Ecclesiastical Court, having been the Cause of much Scandal to the People, to the prejudice of Religion and the Catholick Faith, the Regent caused her to be tried before the Bishop of *Beauvais*, in whose Diocese she was taken in the manner above related.

The Opinion the Regent had of the Maid of *Orleans*, appears from part of a Letter, he wrote to the King of *England* about that time, still preserved in *Rymers Fadera, Viz.*

And alle thing there prospered for you till

the Tyme of the Siege of *Orleans*, taken in Hand, God knoweth by what Advis.

At the whiche Tyme after the Adventure falling to the Person of my Cousin *Salisbury* whom God assoille, there felle by the Hand of God as it seemeth a greet strook upon your Peuple, that was assembled there in grette nombre, caused in grette Partie, as y trowe of lakke of sadde Beleve, and of unlevefulle doubt that thei hadde of a Disciple and Lym of the Feende called the *Pucelle*, that used fals Enchauntements and Sorcerie.

The which Strooke and Discomfiture nought oonly lessed in grette Partie, the nombre of youre Peuple there, but as well withdrowe the Courage of the Remenant in mervellous wyse, and couraiged youre adverse Partie and Enemys to assemble hem forthwith in grette Nombre, &c. The rest of the Letter is not legible.

1430.
8 Hen. VI.

Proceedings against WILLIAM MANDEVILLE, alias JACK SHARP, of Wigmoreland in Wales, Major of Abingdon, for High Treason. Anno 9 HEN. VI. 1431.

Mandeville
alias Jack
Sharps

1431.
Hen. VI.

Charge
inst him.

THE Treason William Mandeville, and his Accomplices were charged with, was their assembling in a Riotous and Tumultuous manner, under a pretence of Religious Worship, but with an Intention to subvert both Church and State; particularly that they threatned the Destruction of all Priests, giving out that they would make Priests Heads as cheap as Sheeps Heads, which were then ten a Penny. That they declared themselves Levellers also, giving out, that Christian People ought to have all things in common, of which the said William Mandeville their Captain, and several of his Accomplices being convicted, they were condemned as Traytors by the King's Justices (who sat at the Town of *Abingdon* on this Occasion) and were afterwards

hanged, drawn and quartered there, and in the neighbouring Towns. The Head of Mandeville, being sent up to London, was set on London-Bridge.

The Government it seems were more industrious in suppressing this Insurrection, as they apprehended it was designed to restore the House of *York*, for *Wigmoreland* in *Wales*, which Mandeville mentioned in his Declaration belonged to the *York* Family.

The same Year Richard Ruffel, a Woolcomber, was convicted of High Treason, hanged, drawn and quartered, for assuming Royal Authority, and declaring that he would make Dukes and Earls at his Pleasure.

1431.
9 Hen. VI.

Richard
Ruffel.

convicted
executed.

X

Proceedings

Richard
Wich.

*Proceedings against RICHARD WICH, Clerk, for Heresy,
and against the Vicar of Berking. Anno 1440. HEN. VI.*

1440.
18 Hen. VI.
Burnt for
Heresy.

ON the seventeenth of June 1440, the said Sir *Richard Wich*, Vicar of *Dertford* in *Kent*, having been convicted of Heresy, and of a Relapse, was burnt on *Tower-Hill*. At which Execution there was great murmuring among the People, who looked upon the Sufferer as a Saint, and went by Night to the Place where he was burnt, making Offerings and paying their Devotions to him, kneeling before the Place and kissing the Ground, and afterwards carried part of his Ashes home with them as Holy Relicks, which the superstitious People continuing to do for eight Days successively, a Guard was placed at *Tower-Hill* to prevent it, and

disperse these Zealots, and several of them were made Prisoners, among the rest the Vicar of *Berking* Church near the Tower, (in whose Parish this was done) who received the Offerings that were made, and exhorted the People to be liberal on this Occasion. And it seems the Vicar of *Berking* had mingled Spices and odoriferous Drugs with the Ashes of the Sufferer, pretending that God had wrought a Miracle, to give his Ashes so fine a Perfume: All which the Vicar of *Berking* confessed while he was in Prison, but *Stow* assures us, he was not burnt for this pious Fraud as some Historians have related.

1440.
18 Hen. VI.

A Pious
Fraud.

Dutchess of
Gloucester.

*Proceedings against ELEANOR Lady COBHAM, Dutchess
of Gloucester, and others, for Sorcery and Witchcraft in
St Stephen's Chappel, before the Archbishop of Canter-
bury, &c. Anno 1441. 19 HEN. VI.*

1441.
19 Hen. VI.
The Charge
against her.

THE Libel set forth, That she the said *Eleanor*, in order to bring her Husband the Duke of *Gloucester* to the Crown, had procured and contrived (with *Thomas Southwell*, Canon of *St Stephen's* in *Winchester*, *John Hume*, Chaplain to the Dutchess, *Roger Only* alias *Bullingbroke*, a Priest, a Man expert in Necromancy, and *Margery Goodman*, commonly called the Witch of *Eye* near *Winchester*) to make an Image of Wax like unto the King, which Image they dealt so with by their Devilish Incantations and Sorceries, that as the Image consumed by little and little, the King's Person should so daily decay, till he was brought to his end. *Roger Bullingbroke* being examined before the King's Council owned, That he had by the Procurement of the said Dutchess, wrought by Necromancy to know what should befall her, and to what Estate she

should come: And *Margery Goodman* confessed, That she had prescribed some Love-Potions for the said Lady, to make the Duke of *Gloucester* Love her, which the Dutchess herself did not deny.

On the ninth of November, the Dutchess of *Gloucester*, was brought before the Archbishops and Bishops again, and submitting herself to their Censure was enjoined Penance, which she performed as the Court appointed in the following manner, (*Viz.*)

On Monday the thirteenth of November, she came from *Westminster* by Water, and landed at the *Temple-Bridge*, from whence with a Taper of Wax of two Pounds in her Hand, she went through *Fleetstreet* Hoodless (save a Handkerchief) to *St Paul's*, where she offered her Taper at the high Altar. On Wednesday next, she landed at the *Swan* in *Thames*

1441.
19 Hen. VI.

The Dut-
chess does
Penance.

1447.
Hen. VI.

Thames Street, and then went through *Bridge Street*, *Grace-Church Street*, straight to *Leaden-Hall*, and so to *Christ Church* by *Aldersgate*. On *Friday* she landed at *Queen-Hithe*, and so went through *Cheapside* to *St Michael's* in *Cornhill*, in form aforesaid: At all which times the Mayor, Sheriffs and Crafts of *London*, received her, and accompanied her. This being done she was committed to the Ward of *Sir Thomas Stanley*, in the Castle of *Chester*, having Yearly 100 Marks assigned for her finding, in the 22d of *Henry VI*, she was removed to *Kenelworth*, where she remained till she died.

The said *Roger Bullingbroke*, *Thomas*

Southwell, and *John Hume*, were afterwards indicted and tried for High Treason in conspiring the Death of the King, before the Earls of *Huntington*, *Stafford*, *Northumberland*, and other Commissioners of Oyer and Terminer; and the said *Roger* was convicted, condemned, and executed as a Traytor, but the rest of the Prisoners were pardoned.

As to the said *Margery Goodman*, the Witch of *Eye*, she was convicted in the Ecclesiastical Court of Sorcery and Witchcraft, and of a Relapse after she had acknowledged her Offence, and promised to do Penance, for which she was burnt in *Smithfield*.

1447.
19 Hen. VI.

Bullingbroke convicted and executed as a Traytor.

The Witch of *Eye* burnt.

Proceedings against HUMPHREY, Duke of Gloucester, supposed to have been murdered by the Contrivance of the Queen and Ministry. Anno 1447. 26 HEN. VI.

Duke of Gloucester.

1447.
Hen. VI.

the first charge against him.

THE Duke of Gloucester was charged with acting Arbitrarily, and putting several People to Death illegally, when he was Protector; but the Evidence not supporting the Charge, that Prosecution was dropped, and the Ministry contrived to dispatch him another way. The Parliament therefore being assembled at *St Edmund's Bury*, on the tenth of of *February* 1447, and the Duke of Gloucester taking his Seat as usual, was apprehended with thirty of his Domesticks, being charged in general with a Conspiracy, to depose the King and usurp his Throne, as well as with a design of rescuing his Dutchess by Force out of *Kenelworth-Castle*, where she had been imprisoned, ever since she was prosecuted for Sorcery. But he was found dead in his Bed the next Morning after he was apprehended, supposed to be smothered with the Bed-Cloaths, or by running a Spit into his Bowels, there being no Marks of Violence to be seen upon him. His Servants that were apprehended, were prevailed on afterwards by Threats or Promises, to confess themselves guilty of High Treason; and by their Evidence

several more were convicted and condemned to be executed as Traytors; but the Ministry having destroyed their Master, contented themselves with his Blood, and granted his Servants a Pardon. Which makes it evident, that the Court never believed these poor Wretches to have been in a Plot against the Government.

The People who saw through all this Grimace, grew more discontented than ever. They openly cursed the Queen and Ministry for the inhuman Murder: Nor did they spare even the King himself, whose Title to the Crown they began to examine; and turn their Eyes upon the Duke of York, whose Family had been violently dispossessed by the King's Grandfather. The Duke was buried in the Abbey Church of *St Albans*, where a fine Tomb was afterwards erected to his Memory. This Nobleman was not only the Darling of the People, who gave him the Name of *The Good Duke*, but the greatest Patron of the Learned in that Age. He is said to have laid the Foundation of the Famous Library in *Oxford*, now called the *Bodleian* from *Sir Thomas Bodley*, a late Benefactor.

1447.
26 Hen. VI.

Proceedings

Duke of
Suffolk.Proceedings against WILLIAM DE LA POLE, Duke of
Suffolk. Anno 1450. 29 HEN. VI.1450.
29 Hen. VI.The Charge
against him.

A Parliament being assembled on the sixth of November 1449, the Commons appeared extremely incensed against the Earl (now Duke) of Suffolk, the Prime Minister (who two or three Years before had prosecuted the late Duke of Gloucester with that Violence): they charged him with all the Losses the English had sustained in France, and the Speaker of the House of Commons went so far, as to declare that he had actually sold the Realm of England to the French King, who was preparing to invade it. Whereupon the Duke desired they would reduce the Charge against him into particular Articles, that he might be enabled to make his Defence, shewing at the same time that his Father and three of his Brothers had been killed in the French Wars, and that he himself had been in the Service thirty four Years there, and paid twenty thousand Pounds for his Ransom when he was made Prisoner, and that he was seventeen Years together abroad without once seeing England, and protested as he hoped for Mercy at the Hands of God, he had ever been true to the King and Realm.

Particular
Articles.

Soon after the Commons exhibited Articles against the Duke, charging him with treating with the Bastard of Orleans, to persuade the French King to invade the King of England's Dominions, that during the Confusion he might place his Son upon the Throne, whom he proposed to marry to the Daughter of John Duke of Somerset, next Heir to the Crown.

That he was bribed by the French to set the Duke of Orleans at Liberty.

That he had been the occasion of delivering up Mans and Maine to the French, and imposed on the Council to induce them to ratify it.

That he had hindered the Conclusion of the Peace, by discovering to the French the Weakness of the Kingdom.

That he had obstructed the sending Succours to France, and neglected to include the Allies of England, the King of Arragon, and the Duke of Bretagne in the late Truce, by which he had rendered them Enemies to this Crown.

The Duke's Defence consisted in a flat Denial of one part of the Charge, and as to the other, the delivering up Maine, &c. he produced the King's Orders.

But the Commons still looked upon the Duke to be nevertheless guilty; and that what he pleaded in his Defence was indeed an Aggravation of his Fault, namely the making use of the Royal Authority to the destruction of his Country. And the Queen thought fit in order to appease the People, to suffer the Duke to be committed to the Tower, after which she procured the Parliament to be prorogued to Leicester, looking upon the Citizens of London to have no small Influence in this Prosecution. In the Interval between the Sessions at London, and that at Leicester, the Queen released her Favourite the Duke of Suffolk from his Confinement in the Tower, which put the Nation in such a Ferment, that it occasioned several Insurrections, the most considerable of which was in Kent, where the Populace were assembled by a bold Fellow, that gave himself the Name of Blue Beard; but these being suppressed, the Duke of Suffolk had the Assurance to appear again as Prime Minister at the Parliament of Leicester: This so incensed the Commons, that they addressed the King in a Body, that the Duke who had been the occasion of the Loss of Normandy, might be punished according to his Deserts; at which the Queen and the Duke were confounded. They apprehended if he put himself upon a Tryal by his Peers, it would prove fatal to him: The King therefore in order to Skreen him from a more rigorous Sentence, at the Instance of the Duke himself, banished him for five Years: Whereupon the Lords desired it might be recorded, that this was not done by their Judgment or Assent, that it might not be brought for the future as a Precedent to debar them or their Posterity of the Privilege of being tried by their Peers.

But notwithstanding the Duke of Suffolk had thus escaped the Judgment of
hi

1450.
29 Hen. VI.
His defence.Blue Beard's
Insurrection.The Duke
banished by
the King.The Lords
Protest on
this occasion.

1450.
29 Hen. VI.

The Duke's
Head struck
off at Sea.

his Peers, he was so apprehensive of being torn in Pieces by the People, that he immediately embarked for *France*, but was met with in his Passage by an *English* Man of War, called the *Nicholas*, sent out by the Duke of *Exeter* Governour of the *Tower*; the Commander whereof coming on Board the Ship, either on purpose to search for the Duke of *Suffolk*, or on some other Account, and finding him hid in the Hold, apprehended this great Minister, and taking him into his Boat, cut off his Head in *Dover Road*, throwing his Head and Body upon the Shore, which were afterwards taken up and buried by one of his Chaplains. Whether this was done by Authority from the new Ministry or not, does not appear; but the Duke was so universally hated by all sorts of People, that I do not find the Captain was ever called to account for putting him to Death in this manner. This Nobleman we find was the Person charged with being the Occasion of the Loss of all the *English* Territories in *France*; and certainly he was not entirely innocent, for notwithstanding he endeavoured to justify himself by Orders he received from the King and Council, they were no other than what he himself had dictated, being at that time Prime Minister, and the King incapable of judging what was hurtful or beneficial to the State. If it be demanded what ends he could have in betraying his Country, he had no doubt two very prevailing Motives. The Match with the Princess of *Anjou* was brought about as has been observed already, to fortify his Interest at Court, and destroy his great Enemy the Duke of *Gloucester*; with this view it was that he agreed to deliver up *Mans* and the County of *Maine* to the *French*, which was the Barrier of *Normandy*, when he found *Charles* would not consent to marry his Kinswoman to the King of *England* without this Concession. One would be tempted to think also that both the Queen and the Minister were under a secret Engagement to deliver up the rest of the Provinces, when we see above an hundred strong Places lost within a Year or two, which might have been defended for an Age, as the Sea was open to us, and most of them near the Coast. Certain it is, if they had contrived the delivering up these Provinces, they could not have taken more likely Measures to effect their Purpose, than they did, for

none of the Towns had Garrisons sufficient to defend them, and those few Troops they had were unpaid, and allowed to plunder the Natives for their Subsistence, which raised in them a general Disgust against the Dominion of the *English*. And notwithstanding the Garrisons were so weak, and the Country generally disaffected, the Court of *England* did not only neglect sending over Reinforcements when the *French* attacked them, but recalled the Duke of *York* from that Regency, who had ever been successful in *Normandy*, and sent the Duke of *Somerset* thither, who minded scarce any thing but enriching himself by the Plunder of the People, and thereby encreased the disaffection of the Natives. And no wonder if in these Circumstances the *French* Provinces were lost in less time than they were conquered.

A Loss that appeared so great at that time of Day, that we find the People shewing the utmost Resentment against the Queen and her Minister, whom they apprehended the Authors of it. And they could not but despise the indolent Administration of a Prince, who saw such considerable Parts of his Dominions torn from him without a Struggle, and might well expect to see the rest follow the same Fate, unless there was a Change at Court.

Which leads me to give some Account of the Murders and Violences committed by *Jack Cade* the same Year. He was an *Irish* Man and personated Sir *John Mortimer*, Cousin to the Duke of *York*, declaring the Principal Reason of his taking Arms was to procure the recalling the Duke of *York* to Court, who was then in *Ireland*; and by exposing the destructive Measures of the Ministry, he made abundance of *Malecontents*, particularly in *Kent*, where he assembled a prodigious Multitude on *Blackheath*, giving himself the Title of *Captain Mendall*.

The King sending to demand the Reason of his appearing in Arms; *Cade* sent him a Particular of the Subjects Grievances relating to the Mismanagement of publick Affairs, and the Extortions and Oppressions of the Officers and Ministers of Justice, demanding that the Duke of *Somerset* might be punished as one of the Authors of the loss of *Normandy*; and that the Duke of *York*, the Duke of *Buckingham*, and some others might be admitted into the Council. But the Court instead of hearkning to their Complaints,

1450.
29 Hen. VI.

Cade's Insurrection.

Beard's
rection.

Duke
shed by
King.

Lords
test on
occasion.

1450.
29 Hen. VI.

plaints, assembled an Army of fourteen or fifteen Thousand Men, with which the King marched in Person to attack the *Malecontents*. Whereupon their Leader *Cade* thought fit to retire to *Sevenoake* in *Kent*, and the Court returned to *Westminster*, sending only a Detachment under the Command of Sir *Humphry* and Sir *William Stafford*, to disperse those that remained together in a Body, imagining that most of them were retired to their several Dwellings. But *Cade* having placed his Troops in Ambuscade in the Woods about *Sevenoake*, the Forces commanded by the *Staffords* were surrounded, and most of them either killed or taken Prisoners, the two Brothers who commanded them, being killed on the Spot: Upon the News of this Success, *Cade* was joined by still greater Numbers of *Malecontents*, with which he returned to *Blackbeath*, and the King and Court were so terrified at their Approach, that they retired to *Kenelworth* Castle in *Warwickshire*, and *Cade* advanced and took up his Quarters in the Borough of *Southwark*, on the first of *July*. The next Day he marched his Troops over the Bridge into *London*, without any Opposition from the Citizens, keeping his Men under exact Discipline. He issued out his Orders however, as if he had been vested with Sovereign Authority; particularly he commanded *Thomas Cock*, *Woolen Draper*, to raise him a Troop of Horse, and the *Genoese* and other *Italian* Merchants to find Money for this Levy, which was done accordingly, and at Night he retired with his People to *Southwark* again. The next Morning returning into the City, he ordered the Lord *Scales* Governour of the *Tower*, to bring the Lord *Say*, the late Treasurer to *Guild-hall* to be tried, who had been committed to the *Tower* at the Instance of the House of Commons, as having concurred with the Duke of *Suffolk*, in delivering up *Mans* to the *French*.

Cade also took upon him to order the Lord Mayor and Aldermen to assemble at *Guildball*, in order to sit in Judgment on the Lord *Say*, but his Lordship insisting on being tried by his Peers, *Cade* hur-

ried him from the Bar, and struck off his Head at the Standard in *Cheapside*. After which he marched to *Mile-end*, to confer with another Body of *Malecontents* from *Essex*, and meeting with Sir *James Cromer*, who had lately married the Lord *Say's* Daughter, in his way he cut off his Head, ordering both that and the Lord *Say's* to be carried before him upon Spears. He also plundered one of the Aldermen's Houses, and fined others who refused to obey him, and his Soldiers committed several other Outrages in the City. This gave the People such Apprehensions of being plundered, that when *Cade* retired into *Southwark* as usual in the Evening, they determined to oppose his entering the City any more: and sending to the Lord *Scales* to assist them with part of the Garrison of the *Tower*, they immediately began to fortify the Bridge; of which the *Malecontents* having Notice, attacked the Works, but were repulsed. This put the Rebels into some Consternation, and the Archbishop of *Canterbury*, Lord Chancellor, taking advantage of it, caused a Pardon to be published under the Great Seal for all those that should lay down their Arms. This had such an Effect, that they immediately forsook their Leader and dispersed; soon after which *Cade* being pursued to *Hothfield* in *Kent*, and standing on his Defence was killed; his Head was afterwards cut off, and set upon *London Bridge*, and his Quarters dispersed in several Parts of *Kent*, the first Scene of this Insurrection. There were Insurrections also in *Essex*, *Wiltshire*, and several other Counties; but upon the Death of *Cade*, the *Malecontents* dispersed and retired to their Dwellings.

During these Tumults *William Aiscomb* Bishop of *Salisbury* was seized by his own Tenants as he was at his Devotions before the High Altar, and being dragged to the top of a neighbouring Hill, they there cleft his Skull as he kneeled down to Prayers, and having stripped him naked, every one tore a piece of his bloody Shirt, and carried off in a barbarous kind of Triumph.

1450.
29 Hen. VI.
Lord Say's
Head struck
off by Cade,
and Sir
James Cromer's.

Cade killed.

Bishop of
Salisbury
murdered
by his Tenants.

Proceedings against REGINALD PECOCK, Bishop of ^{Bishop Pe-}
Chichester, for Herefy. Anno 1457. 36 HEN. VI. cock.

1457.
Hen. VI.

the Charge
against him.

is Recan-
tation.

DOCTOR Reginald Pecock was charged with maintaining several Doctrines not agreeable to the Catholick Faith, of which he was convicted before the Archbishop of Canterbury and his Associates, but submitted himself to the Court and renounced his Errors as he was appointed at St Paul's Cross, in manner following. (*Viz.*)

" In the name of the Trinity, Father
" Son, and Holy Ghost, I Reginald Pe-
" cocke Bishop of Chichester, unworthy,
" of my own Power and Will, without
" any manner of Coertion or Dread, con-
" fess and knowledge that I here before
" this time, presuming of my natural
" Wit, and preferring my Judgment and
" natural Reason before the new and the
" Old Testament, and the Authority and
" Determination of our Mother Holy
" Church, have held, written, and taught
" otherwise than the Holy, Roman,
" and Universal Church teacheth, preach-
" eth, or observeth. And against the
" true Catholick and Apostles Faith, I
" have written, taught, and published
" many and divers perilous Doctrines,
" Books, Works, and Writings contain-
" ing Heresies and Errors contrary to
" the Faith Catholick, and Determina-
" tion of Holy Church, and especially
" these Heresies and Errors following,
" that is to say,

" *Imprimis, quod non est necessitate fidei*
" *credere quod Dominus noster Jesus Chri-*
" *stus post mortem descendit ad inferos.*

" *Item, quod non est de necessitate salutis*
" *credere sanctorum communionem.*

" *Item, quod Ecclesia universalis potest*
" *errare in his quæ sunt fidei.*

" *Item, quod non est de necessitate salutis*
" *credere & tenere illud quod concilium ge-*
" *nerale & universalis Ecclesia statuit, op-*
" *probat seu determinat infavorem fidei, &*
" *ad salutem animarum est ab universis*
" *Christi fidelibus approbandum & tenen-*
" *dum.*

" Wherefore I miserable Sinner here
" before long time have walked in Dark-
" ness, and now by the Mercy and in-

" finite Goodness of God reduced into
" the right way, and light of Truth
" and considering my self grievously to
" have sinned, and wickedly have in-
" formed and infected the People of God,
" return and come again to the Unity of
" our Mother, Holy Church, and all Heresies
" and Errors written and contained in my
" Books, Works, and Writings, here
" solemnly and openly revoke and re-
" nounce; which Heresies and Errors;
" and all other Species of Heresies I
" have before this time, before the most
" Reverend Father in God, and my
" good Lord of Canterbury in due and
" lawful Form, judicially abjured, sub-
" mitting my self, being then and also
" now at this time a very contrite and
" penitent Sinner, to the Correction of
" the Church, and of my said Lord of
" Canterbury.

" And over this, exhorting and requir-
" ing in the Name and Virtue of Al-
" mighty God in the Salvation of your
" Souls and Mind, that no Man hereaf-
" ter give Faith and Credence to my
" said pernicious Doctrines, Heresies
" and Errors; neither my said Books
" keep, hold, or read in any wise; but
" that they all such Books, Works,
" and Writings, suspect of Heresies, de-
" liver in all goodly hast unto my said
" Lord of Canterbury, or to his Comis-
" sioners or Deputies, in eschewing of
" many Inconveniencies and great Perils
" of Souls, the which else might be cause
" of the contrary: And over this in De-
" claration of my Conversion and Re-
" pentance, I here openly assent, that
" my said Books, Works, and Writings,
" for Declaration and Cause above re-
" heard, be deputed unto the Fire
" and openly burnt, in ensample and
" Terror of all other, &c." After this he
" was deprived of his Bishoprick, having
" a certain Pension assigned to him, to live
" on in an Abby, and soon after he died.
" His Books were intituled.

I. Of Christian Religion, and a Book
pretaining thereunto.

H. Of

1457.
36 Hen. VI.

1457.
36 Hen. VI.

- II. Of Matrimony.
III. Just apprising of holy Scripture,
divided into three Parts.
IV. The Donet of Christian Religion.
V. The Followers of the Donet.
VI. The Book of Faith.

VII. The Book of filling the four
Tables.

VIII. The Book of Worshipping.

IX. The Provoker of Christian Men.

X. The Book of Counsel.

1457.
36 Hen. VI.

Proceedings against RICHARD BUCKINGHAM, Duke of Gloucester, for High Treason, Anno 1457. 36 Hen. VI.

Arbitrary Sentences.

1461.
1 Edw. IV.

Earl of Rutland killed in Cold Blood.

THE next arbitrary Executions we meet with, were, after the Battel of Wakefield, Anno 1461, 1 Edw. IV; where the Duke of York being killed upon the Spot, and his second Son the Earl of Rutland, a lad of twelve Years of Age, made Prisoner, he was killed by the Earl of Clifford in cold Blood, with many other Persons of Distinction; from whence the Lord Clifford obtained the Name of THE BUTCHER.

Earl of Salisbury beheaded by Queen Margaret.

The Earl of Salisbury also being much wounded in the Battel, was taken Prisoner and carried to Pontefract-Castle, where his Head was struck off, and afterwards set up with the Duke of York's, in the City of York.

On the other Hand, the Earl of

March (now Duke of York) defeating Jasper Tudor, Earl of Pembroke, at Mortimer's Cross, and taking the Earl's Brother Owen Tudor Prisoner, caused his Head to be struck off, as the Queen had the Earl of Salisbury's just before.

The Queen soon after obtaining another Victory at St. Albans, and taking several Prisoners of Quality, caused their Heads to be struck off in cold Blood, and amongst them the Lord Benville, and Sir Thomas Kireil, who had the Care of King Henry's Person committed to them, notwithstanding they staid with the King at his own Request; and he had promised them a Pardon, when they were about to make their Escape out of the Field.

1461.
1 Edw. IV.

Owen Tudor beheaded by the Duke of York.

Lord Benville, &c. beheaded by Queen Margaret.

Earl of Devon, &c. beheaded.

KING Edward IV, obtaining a signal Victory over Queen Margaret, near Towton in Yorkshire, in the first Year of his Reign, wherein the Earl of Devon, and several other Lancastrian Noblemen were made Prisoners, he ordered the Heads of the Earl of Devon, and some others, to be struck off at York, and placed in the room of his Father's,

the late Duke of York, and the Earl of Salisbury, which then remained on the Walls of that City. From York the King marched to London, and held a Parliament, in which the Earl of Oxford, and Aubrey de Vere, his Son, were attainted without Trial, and afterwards beheaded for no other Crime, than their happening to be on the wrong side.

Earl of Oxford, &c. beheaded.

1463.
3 Edw. IV.
Duke of Somerset, and Lord Rofs beheaded.

AT another Battel fought at Hexham, Anno 1463, where the Queen was defeated, the Duke of Somerset, and the Lord Rofs were made Prisoners, and afterwards beheaded in cold

Blood; and not long after King Henry VI was made Prisoner and committed to the Tower, but his Queen, and his Son Prince Edward, escaped into France.

1463.
3 Edw. IV.

Proceedings against the Earls of PEMBROKE, RIVERS, &c.
Anno 1469. 9 EDW. IV.

Earls of Pembroke, Rivers, &c.

1469. Edw. IV. **A**N Insurrection happening in the North of England, Anno 1469, the Earl of Pembroke was ordered to march against the Rebels; but he was defeated and made Prisoner, and his Head afterwards struck off at Banbury, in cold Blood, by the Lord Fitzbugh, who commanded the Rebels, by way of Retaliation, the Earl having a little before cut off the Head of Sir Henry Neville, the Lord Latimer's Son.

The King's Forces (under the Command of the Earl of Rivers, Father of King Edward's Queen) were defeated also by another Body of Rebels in Northamptonshire, and the Earl being made Prisoner, Robert Riddefdale who commanded the Rebels, carried the Earl to Northampton, and there cut off his Head: and on the other Hand, the King ordered the Lord Stafford's Head to be cut off, for deserting the Lord Pembroke, which occasioned the loss of the first Battel: But in a third Battel, where the King was surprised by his Brother the Duke of Clarence, and the Earl of Warwick, King Edward himself was made Prisoner, and committed to the Care of the Archbishop

of York, from whom the King had the good Fortune, however, to make his Escape to London: Where he understood that Sir Robert Wells, Son of the Lord Wells, assembled an Army in Lincolnshire for the Earl of Warwick; whereupon the King sent for his Father to Court, and made him write to his Son to disband his Troops: but his Son refusing to obey, the King beheaded the Lord Wells, with his Brother-in-law Sir Thomas Dymock, who came up with him. Then the King marched down against Sir Robert Wells in Person, and defeated him near Stamford, no less than 10,000 of the Malecontents being killed on the Spot: This Battel obtained the Name of Lose Coat Field, from the Lincolnshire Mens throwing away their Coats to run away. As to Sir Robert Wells himself, he was taken Prisoner and soon after beheaded, and the Duke of Clarence, and the Duke of Warwick not being able to keep the Field after this Defeat, embarked at Dartmouth for Calais, with the Earl of Warwick's two Daughters, the eldest of which was married to the Duke.

1469. 9 Edw. IV.

Lord Wells and Sir Thomas Dymock beheaded.

Sir Robert Wells beheaded.

Proceedings against Prince EDWARD, the Duke of Somerset, &c. Anno 1471. 11 EDW. IV.

Prince Edward, Duke of Somerset, &c.

1471. Ed. IV. **A**T the Battle of Tewksbury, fought Anno 1471, 11 Edward IV, Queen Margaret and Prince Edward her Son, being made Prisoners, together with the Duke of Somerset, and the Prior of St John's, Prince Edward was killed the same Day in cold Blood, and the Duke of Somerset, and the Prior, were beheaded the next without any Formality, and Queen Margaret committed to the Tower of London.

These frequent Insurrections were the Destruction of King Henry, for Edward

apprehending he should never be at rest while that Prince lived, caused him to be put to Death about this time, and his Corps was afterwards exposed several Days in St Paul's Cathedral, from whence it was carried to Chertsey in Surrey and interred there, but was taken up afterwards and removed to Windsor, by the Order of King Edward, and a Tomb erected over it; but whether King Henry was killed by the Duke of Gloucester, with his own Hands as some Historians relate, is very uncertain.

1471. 11 Ed. IV. K. Henry VI. murdered.

1471.
11 Ed. IV.
Falconbridge
beheaded.

Thomas, the Bastard of Falconbridge, who commanded another Body of Rebels, and assaulted the City of London, while King Edward was engaged in that of Tewksbury, was afterwards taken Prisoner by the Duke of Gloucester

at Southampton, and beheaded without being brought to a Trial, notwithstanding he had obtained the King's Pardon; but probably he had given some fresh marks of his Disaffection.

1471.
11 Ed. IV.

Burdet.

Proceedings against THOMAS BURDET, for High Treason, and against GEORGE Duke of Clarence. Anno 1478. 18 EDW. IV.

1478.
18 Ed. IV.
The Charge
against him.

KING Edward hunting in the Park of Thomas Burdet, a Dependant of the Duke of Clarence's, killed a white Deer, which Burdet set a great Value upon; and when the Owner was informed of it, he was exasperated to that Degree, to wish the Bucks Horns in the Belly of him that killed it; and Burdet was not only impeached in Parliament for this Offence, but accused also of Conspiring to poison, enchant, and bewitch the King, for which he was attainted of High Treason, and afterwards beheaded. *Stow 430.*

Attainted by
Parliament
and executed.

Duke of
Clarence.

This arbitrary Act of Power extremely offended the Duke of Clarence, Burdet's Patron, as it was intended by the Court it should, and occasioned his using some indiscreet and passionate Expressions, he even reproached the King his Brother to his Face, with causing his Friend Burdet to be wrongfully put to Death, and 'tis said threatned to be revenged; and when he was gone out of the King's Presence, he affirmed that the King was a Bastard,

and had no Right to the Crown, or Words to that effect. Whereupon the following Articles were preferred against the Duke in Parliament. (*Viz.*) That the Duke endeavoured to raise a Rebellion, by giving out that Burdet was wrongfully executed; that the King had caused several innocent Persons to be poisoned; that the King was not the Son of the late Duke of York: And they further charged, That Clarence intended to usurp his Throne; that he had accused the King of Magick, and some other Matters of less Consequence, and he was thereupon attainted of High Treason, without an Opportunity of making Defence: But however the Charge was made out, it was not thought fit to execute him publicly; he was put to Death in the Tower, by thrusting his Head into a Butt of Malmsy, as the Tradition goes. Certain it is there appeared no Marks of Violence upon him, when his Body was afterwards exposed to publick View.

1478.
18 Ed. IV.
The Charge
against him.

Attainted in
Parliament.

Murdered
in the Tower.

Proceedings against Five Persons for Sacrilege. Anno 1480. 20 EDW. IV.

1480.
20 Ed. IV.
Felons burnt
and pressed
to Death.

IN the Year 1480, five Notorious Church Robbers being convicted of Sacrilege, three of them were drawn to Tyburn, and there hanged and burnt, and the other two pressed to Death, from whence it appears that the Judges were vested with a discretionary Power in those Days of altering or encreasing the ordinary Punishment for Felony, suitable to

the Heinousness of the Fact, which they have not at present. It is possible indeed, that the latter might be pressed to Death for refusing to plead; but this does not appear to be the Case, and as to the first three, it is certain the Judgment was Arbitrary, because burning is not the Punishment appropriated to Felony.—*Stow 431.*

1480.
20 Ed. IV.

Proceedings against ANTHONY WOODVILE, *Earl of Rivers*, RICHARD Lord GREY, Sir RICHARD HAWSE, and Sir THOMAS VAUGHAN, for High Treason. Anno 1483. 1 EDW. V.

Earl of Rivers, Lord Grey, &c.

THE Earl of Rivers, and the rest of the Prisoners, were charged with conspiring the Death of the Duke of Gloucester the Protector, and of the Duke of Buckingham, and contriving to get the Government of the King's Person, and the whole Realm into their Hands; on which Pretence they were apprehended, and sent Prisoners to Pontefract Castle, where some few Weeks afterwards they were beheaded, by an Order of the Protector and Privy Council, directed to Sir Richard Ratcliffe, without being brought to a Trial, or suffered to offer any thing in their Defence.

To let the Reader into the Reason of this arbitrary Proceedings, it will be necessary to observe, that King Edward V, at the Death of his Father, resided at Ludlow in Shropshire; whither he was sent by the late King, with his Uncle the Earl of Rivers, to guard the Borders against the Welsh, who seemed disposed for an Insurrection.

There were at this time two Parties at Court, the one consisting of the Queen's Relations, and such as had been preferred in the late Reign; and the other of the antient Nobility, of whom the Lord Chamberlain Hastings, the Duke of Bucks Constable of England, and the Lord Stanley, were the Chief; and of the other the Earl of Rivers, the Queen's Brother, Governor to Prince Edward, the Marquis of Dorset, and the Lord Grey, her Sons. The Duke of York always carried it fair to the Queen and her Family, while his Brother was alive; but courted the antient Nobility underhand, as most likely to promote the Designs he had laid. He was in the North when the late King expired, whereupon his Friends, the Lord Chamberlain Hastings and the Duke of Bucks, sent him an Express to hasten to Court, that they might get the young King, and the

Administration into their Hands, before the Queen had made herself Mistress of both; for the Queen had ordered the Earl of Rivers, her Brother, to assemble Forces on the Borders of Wales, to protect the King, her Son, and convey him safe to London.

The Duke of Gloucester therefore, in order to get the King and his Mother's Relations into his Power, wrote to the Queen, expressing a more than ordinary Affection for the King and his Nephew, and promising to assist both him and her to the utmost of his Power; but advised her at the same time, to order the Earl of Rivers to dismiss the Forces he had assembled to conduct the King to London, because this would create Suspensions in the antient Nobility, who were but lately reconciled, and perhaps occasion new Disturbances.

The Duke having always expressed a great Regard to the Queen and her Family, she had no Suspicion of any Design against her, but imagined his Advice proceeded from a real Concern for the Welfare of his Nephew, and thereupon wrote to the Earl of Rivers to dismiss his Forces, and bring the King to London with his ordinary Retinue, which the Earl obeyed, and came with the King as far as Northampton; where the Dukes of Gloucester and Bucks met him with near a thousand Horse. The Town being already full of Strangers, and Provisions scarce, it was thought proper that the King and his People should proceed to Stony-Stratford, twelve Miles farther on the Road to London, and that the Dukes of Gloucester and Bucks should remain at Northampton that Night; whereupon they entreated the Earl of Rivers to stay with them there, promising to attend the King with him next Morning, and accompany his Highness to London: To which the Earl consented, and left the King

1483. 1 Edw. V.

1483.
1 Edw. V.

King under the Conduct of the Lord Grey, to continue his Journey to *Stony-Stratford*.

The two Dukes and the Earl of *Rivers* supped together that Night, expressing a more than ordinary Friendship and Respect for each other. The Earl had so little Suspicion of any Design against him, that he lodged at the same Inn with them; but to his great Surprise it was told him next Morning, that the Dukes had taken the Keys of the Inn to Bed with them, and would suffer no Person to pass in or out. Whereupon he went to *Gloucester's* Chamber, to enquire the Reason of this abundant Caution, but was no sooner entered the Room, than they began to quarrel with the Earl, charging him with a Design of alienating the King's Affection from them; and the Earl being about to make some Reply, they ordered him to be taken into Custody. After which they followed the King to *Stony-Stratford*, and found him

just setting out for *London*. Having paid their Compliments to the King, they fell into Conversation with the Lord Grey, and demanded what he, and the Earl of *Rivers*, and the Marquis of *Dorset*, meant by seizing on the King's Person, and excluding the late King's Relations and Friends from any Share in their Councils. And thereupon ordered the Lord Grey, Sir *Thomas Vaughan*, and Sir *Richard Hawse*, part of the King's Retinue, to be taken into Custody, obliging them with the King, and the rest of his Servants, to return back to *Northampton*; and soon after sent the Earl of *Rivers*, the Lord Grey, and two Knights Prisoners to *Pontefract* Castle, where they were soon after beheaded, as has been related already by an Order of Council, in which the Lord *Hastings* very readily concurred out of Hatred to the Queen's Relations, though he then understood nothing of the Protector's Ambitious Views, to which he himself was made the next Sacrifice.

1483.
1 Edw. V.

Lord Hastings.

Proceedings against WILLIAM — Lord HASTINGS,
Lord Chamberlain, for High Treason. Anno 1483.
1 EDW. V.

1483.
1 Edw. V.
The Charge
against him.

THE Protector, the Duke of *Gloucester*, in his Proclamation for quieting the Minds of the People, for the Murder of the said Lord *Hastings*, declares, That this Nobleman with divers other wicked Conspirators, had traiterously contrived the same Day, to have slain the Protector and Duke of *Buckingham* sitting in Council, with a purpose and design to take upon him the Government of the King and Kingdom, and rule all things at his Pleasure; that by his ill Advice he enticed the King's Father to many things much redounding to his Dishonour, and to the Universal Damage and Detriment of the Realm, leading him into Debauchery by his exemplary Wickedness, and procuring lewd and ungracious Persons to gratify his Lusts, and particularly *Shore's* Wife, who was one of his Secret Council in this Treason; by which lewd living, the said King not only shortened his Days, but also was forced to oppress and tax his People, that he might have sufficient to gratify

his Expences. And since the Death of the said King, he hath lived in a continual Incontinency with the said *Shore's* Wife, and lay nightly with her, particularly the very Night before his Death; so that it was no Marvel if his ungracious Life, brought him to so unhappy a Death, which he was put to by the special Command of the King's Highness, and of his Honourable and Faithful Council; both for his own Demerits, being so openly taken in his intended Treason, and also least any delay of his Execution might have encouraged other mischievous Persons, who were engaged in the Conspiracy with him, to make an Insurrection for his Deliverance; which being wisely foreseen, and as effectually prevented, was the only means under God's Providence, to preserve the whole Realm in Peace and Quietness.

These were specious Reasons to amuse the People; but the real Occasion of this arbitrary Proceeding against the Lord *Hastings*, was his firm Adherence to the
Sons

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1 Edw. V.

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Sons of Edward IV, whom he would never consent to set aside, and advance the Duke of Gloucester their Uncle to the Throne, which the Protector discovered by means of one *Catesby*, a Lawyer, whom *Hastings* had preferred and made his intimate Confident.

This Man the Duke of Gloucester by Bribes and Promises of Advancement won over to his Interest, and engaged him to sound the Lord *Hastings* on this Subject; who discoursing with him about the present Posture of Affairs, and the Duke's Title to the Crown, observed, that it would be much better if it might lawfully be done, that an experienced and brave Commander should govern the Nation than a Child. The Lord *Hastings* answered, "That he had rather see the Death and Destruction of the Protector and Duke of Buckingham, than the young King deprived of the Crown: and that if he discerned any Designs that way in any Persons whatsoever, he would engage his utmost Power and Ability against them". Which Words being immediately carried to the Protector by *Catesby*, his Ruin was determined and effected in the following manner.

The Lord *Hastings* and the rest of the Lords of the Council, being assembled in the Tower on the thirteenth of June, the Protector came to them about nine in the Morning, and having saluted the Members, and talked with them familiarly upon different things, he left the Room, and desired they would proceed in their Consultations without him. About an Hour after he returned frowning and biting his Lips, and having remained silent for some time, he demanded in an angry Tone, *What Punishment they deserved who had conspired against his Life, while he was Protector of the Realm.* To which the Lord *Hastings* answered, *They ought to be punished as Traytors*, and the rest of the Lords concurred with him in that Opinion. Whereupon the Protector stripping his left Arm-bear, which appeared much less than the other, he declared, *It was the Queen and her Confederate Shore's Wife, that had thus wasted his Flesh by Sorceries*: At which the Council were astonished, knowing very well that his Arm had long been in this Condition, but none had more reason to be concerned at this Declaration than the Lord Chamberlain *Hastings*, who since King Edward's Death, had taken *Jane Shore* to his Bed. To which the Cham-

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Edw. V.

berlain answered, *If they had been guilty of such Practices, they deserved to be severely punished. Dost thou answer me with Isi and Ands?* says the Protector, *I tell thee they are guilty, and that I will make good upon thy Body, Traytor*; insinuating that *Hastings* was a Confederate with them. Then the Protector striking on the Table, a Cry of Treason was heard without, and a Company of armed Men rushed into the Council Chamber; one of them struck the Lord *Stanley*, and wounded him with a Battle-Ax, and had certainly cleft his Skull, if he had not shrunk under the Table. Then the Protector ordered the Lord *Hastings* and *Stanley*, with the Archbishop of York, and Bishop of Ely to be taken into Custody, and leaving the Council Chamber abruptly, declared, *He would not dine till the Lord Hastings's Head was struck off.* Accordingly that Lord was hurried to the Tower-Green, before the Chappel, and being allowed time only to make a short Confession to a Priest who accidentally passed by, was beheaded on a Piece of Timber that lay upon the Green, at the very Instance the Earl of Rivers, the Lord Grey, and the other Prisoners at Pontefract, were executed in the same illegal manner; to whose Deaths the Lord *Hastings* had consented: which occasioned Sir *Walter Raleigh* to say, *That a greater Judgment than this upon Hastings, he had never observed in Story.*

Comines the French Historian, and His Character. sometime Minister in the Court of England, who knew this Lord well, gives him the following Character.

He was a Person of singular Wisdom and Virtue, in great Authority with his Master, and not without Cause, having ever served him faithfully. And making mention of the Bounty of the then King of France to King Edward the Fourth's Officers, saith, That he gave to this Lord *Hastings*, at one time, a Present of Plate, to the Value of ten thousand Marks. Moreover he saith, That this Lord *Hastings* was long laboured, e'er he could be won to be the King of France's Pensioner; and that he himself was the only Man that wrought him thereto. Instancing, That he first won him to the Friendship of the Duke of Burgundy (whom he served) and that he advertised the King of France thereof, saying, he would in like manner make him his Friend and Pensioner; adding, That he thereupon began his Friendship by Letters;

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1 Ed. V.

Letters: Whereupon that King gave him a Pension of two thousand Crowns *per Annum*, which was double to what he had from the Duke of Burgundy; and that upon the Payment thereof, he not only refused to give any Acquittance, but to give him three Lines in Writing to testify the Receipt of the Money, saying, *Put it here (it being in Gold) into my Sleeve, for other Testimonial you get none of me;*

for no Man shall say, That King Edward's Lord Chamberlain hath been Pensioner to the French King; nor that my Acquittances be found in his Chamber of Accounts. He further saith, that the King of France more esteemed him, than all the King of England's other Servants; and that his Pension was ever paid without Acquittance.

1483.
1 Ed. V.

Proceedings against King EDWARD V, and his Brother RICHARD Duke of York, on account of their pretended Illegitimacy. Anno 1483. 1 ED. V. and 1 RIC. III.

1483.
1 Ed. V.
1 Ric. III.

Steps taken
to destroy
the King.

THE first step the Duke of Gloucester took to render the Legitimacy of his two Nephews, King Edward V, and his Brother the Duke of York suspected, was to employ Dr Shaw, Brother to the then Mayor of London, and some other Mercenary Preachers, to declare this in their Pulpits; and preach up that Richard Duke of Gloucester was the undoubted Heir of the Crown, and with the Title inherited all Royal Virtues; and when he imagined the People were prepared by these Harangues to set his Nephews aside and advance him to the Throne, the Protector and the Duke of Bucks came to Guildhall, where the Mayor, Aldermen, and Citizens were summoned to attend. And here the Duke of Bucks in a set Speech having shewn the Miscarriages and Oppressions of the late Reign, began to insist, as Dr Shaw and his Brethren had done, on the Illegitimacy of the late King's Children, and the Incapacity of the Duke of Clarence his Brother's Children, to inherit on account of an Act of Attainder passed against him in the late Reign; and moved the Lord Mayor and Citizens that they would concur therefore with the Privy Council, and the rest of the People of England, in petitioning the Protector, the undoubted Heir to the Crown, to take the Government of the Kingdom upon him, and declare him their Sovereign. Here the Duke made a Pause, expecting the Citizens would have cried out long Live King Richard, but there was a profound Silence. Whereupon the Duke demanded of the Mayor what could be

the Reason of it? The Mayor said he believed the People did not apprehend his Meaning: Then the Duke raising his Voice, repeated in few Words the Substance of his long Harangue, which served only to astonish his Audience the more. Whereupon the Recorder was ordered to represent the matter to them; but neither had this any better effect, till some of the Duke's own Servants, and some of the Mob having crowded into the Hall, flung up their Caps, and cried King Richard; which gave the Duke occasion to say that he was overjoyed to find them so unanimous in acknowledging King Richard for their Sovereign; desiring they would assemble again the next Morning, that they might attend his Highness together, and prevail on him if possible, to take the Burthen of the Government upon him.

The next Day accordingly, the Duke of Bucks, and several other Noblemen, the Lord Mayor and Aldermen, and great Numbers of the Citizens attended Richard at Baynard's Castle in Thames Street, his usual Residence: Here the Duke of Bucks acquainted him that the Lords and Citizens that were present, reflecting on their Oppressions and Sufferings in the late Reign, and the unsettled Condition of the Nation at present, while King Edward's spurious Issue sat upon the Throne, they came to petition him as he was the only surviving Son of the late Duke of York, and alone able to protect them from the Miseries they feared, that he would accept the Crown, and take the Government of the Kingdom upon him, which

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1 Ed. V.
1 Ric. III.

1483.
1 Ed. V.
Ric. III.

which was his undoubted Inheritance. To which the Protector answered, That though there might be a great deal of Truth in this Address; yet such was his Affection to his Brother's Children, that he could never consent to accept their Offer: The Duke of *Bucks* replied, that the People were determined never to obey King *Edward's* Children; and if the Protector refused to be their King, they should soon find a Prince that would not slight their Proposals.

This Resolution seemed to alarm the Protector, he told the People he was extremely concerned that the Kingdom was so averse to the Dominion of his Brothers Issue: He was not ignorant indeed that the Crown belonged to him as Heir of the House of *York*, and that the Election of the People was still a more desirable Title than that of Descent: Therefore since they were resolved to exclude the young Princes, he gratefully accepted the Offer they made him of the Crown; and from this Instant should take the Government of the Kingdom upon him, Whereupon the inferior People joining with the Court, cried out, *long Live King Richard*. But most of the Citizens returned to their Dwellings, amazed at the Theatrical Proceeding.

King *Richard* hereupon assuming the Royal Dignity, was proclaimed King, and soon after crowned, (*Viz.*) on the 5th of *July*, 1483: After which he summoned a Parliament, which assembled on the 23d Day of *January*, who were so complaisant as to pass an Act for his Establishment of the following Tenor. (*Viz.*) That the Marriage between King *Edward IV*, and the Lady *Elizabeth Grey* was made of great Presumption, without the Knowing and Assent of the Lords of this Land, and also by Sorcery and Witchcraft committed by the said *Elizabeth* and her Mother *Jacquet*, Dutches of *Bedford*, as the common opinion of the People, and the publick Voice and Fame throughout all this Land was. And here we consider how that the said pretended Marriage was made privily and secretly without edition of Banns, in a private Chamber, a prophane Place, and not openly in the face of the Church, after the Law of God's Church, but contrary thereunto, and the laudable Custom of the Church of *England*: And how also at the time of the Contract of the same pretended Marriage, and before,

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1 Ed. V.
Ric. III.

and long time after the said King *Edward* was, and stood married and troth-plight to one *Elinor Butler*, Daughter to the Earl of *Surrey*, with whom the said King *Edward* made a Precontract of Matrimony long time before he made the said pretended Marriage with the said *Elizabeth Grey*, in manner and form aforesaid. Which Premises being true, as in very Truth they be true, it appeareth and followeth evidently that the said King *Edward* during his Life, and the said *Elizabeth* lived together sinfully and damnable in Adultery against the Law of God and of his Church: And therefore no marvel that the Sovereign Lord and Head of the Land being of such ungodly Disposition, and provoking the Ire and Indignation of our Lord God, such heinous Mischiefs and Inconveniencies were used and committed in the Realm among the Subjects. Also it appeareth evidently and followeth, that all the Issue and Children of the said King *Edward* be Bastards, and unable to inherit or claim any thing by Inheritance, by the Law and Custom of *England*.

Moreover we consider, how that afterwards by the three Estates of this Realm assembled in Parliament, holden at *Westminster*, Anno 17 of the Reign of the said King *Edward* the Fourth, he then being in Possession of the Crown and Royal Estate, by Act made in the same Parliament, *George Duke of Clarence*, Brother to the said King *Edward*, now deceased, was convicted and attainted of High Treason, as in the said Act is contained more at large: Because and by Reason whereof, all the Issue of the said *George*, was, and is disabled and barred of all Right and Claim, that in any Case they might have or challenge by Inheritance to the Crown and Dignity Royal of this Realm, by the ancient Laws and Customs of the same Realm.

Over this we consider, that you be the undoubted Heir of *Richard Duke of York*, very Inheritor of the said Crown and Dignity Royal, and as in Right King of *England*, by way of Inheritance. And that at this time the Premises duly considered, there is none other Person living but you only that may claim the said Crown and Dignity Royal, by way of Inheritance.

Wherefore we desiring effectually the Peace, Tranquility, and Weal Publique of

1483.
1 Ed. V.
1 Ric. III.

of this Land, and the Reduction of the same to the Ancient Honourable Estate and Prosperity; and having in your great Prudent Justice, Princely Courage, and excellent Virtue, singular Confidence have chosen in all that in us is; and by that our Writing choose you, High and Mighty Prince, our King and Sovereign Lord, &c. to whom we know of certain it appertaineth of Inheritance so to be chosen: And hereupon we humbly desire, pray, and require your most noble Grace, that according to this Election of us the three Estates of your Land, as by Inheritance You will accept and take upon you the said Crown and Royal Dignity, with all things thereunto annexed, and appertaining, as to you of Right belonging, as well by Inheritance, as by lawful Election.

But forasmuch as most part of the People is not sufficiently learned in the abovesaid Laws and Customs, whereby the Truth and Right in this behalf of likelihood may be hid and not clearly known to all the People, and thereupon put in doubt and question: And over this, how that the Court of Parliament is of such Authority, and the People of this Land of such a Nature and Disposition, as Experience teacheth, that Manifestation and Declaration of any Truth or Right may by the three Estates of this Realm assembled in Parliament, and by Authority of the same, maketh before all other things, most faith and certain quieting of Mens Minds, and removeth the occasion of of Doubts and Seditious Language.

Therefore at the Request, and by the Assent of the three Estates of this Realm, that is to say, the Lords Spiritual and Temporal and Commons of this Land assembled in this present Parliament, and by Authority of the same, be it pronounced, decreed, and declared, that our said Sovereign Lord the King, was, and is the very undoubted King of this Realm of England, with all things thereunto within the same Realm and without it, united, annexed, and appertaining, as well by Right of Consanguinity and Inheritance, as by lawful Election, Consecration, and Coronation.

And over this, at the Request, and by the Assent and Authority aforesaid, be it ordained, enacted and established, that the said Crown and Royal Dignity of this Realm, and the Inheritance of

the same, and all other things thereunto, within this Realm and without it, united and annexed, and now appertaining, rest and abide in the Person of our said Sovereign Lord the King, during his Life, and after his Decease, in his Heirs of his Body begotten.

Thus we see his Title or Pretensions to the Crown were grounded upon those false Suggestions, that his Brother Edward's Children were illegitimate, and his Brother Clarence's Children disabled to inherit by their Father's Attainder. The first is a matter of Fact which is now generally held to be false, and the other a point of Law, as generally exploded; it having been the received Opinion ever since, That on whomsoever the Crown descended, it purged all Defects, and there needed no Statute to repeal the Attainder of the next Heir to the Crown.

Notwithstanding this Act of Parliament, the Usurper did not think himself well established; so long as his two Nephews lived; and therefore he proceeded soon after to get them murdered: of which our Histories give us the following Account.

King Richard first practised with Sir Robert Brackenbury Governour of the Tower to dispatch them; but notwithstanding Sir Robert was indebted to King Richard for his Advancement in the World, he refused to be concerned in so execrable a Fact: Whereupon the King ordered him to deliver the Keys of the Tower for a Night to one James Tyrrel, a Domestick of the King's, who had undertaken the barbarous Office.

The two young Princes had long been denied the Conversation of their Friends, their own Servants taken from them, and such People put about them, as had no Inclination or Interest to preserve them: So that Tyrrel having the Keys, found no great difficulty in executing his Orders. He took with him it is said four Villains fit for his Purpose; among whom were Miles Forest a known Assassin, and John Dighton a Groom in the King's Stables. These Fellows entering the Princes Apartment at Midnight when they were asleep, stifled them in the Bedcloaths, and buried them under the Stairs: which when Tyrrel gave the King an Account of, he Knighted him for the Service; but ordered the Bodies to be taken up and buried in a mote decent place, which was done accordingly by Sir Robert Brackenbury's Chaplain; who happening to dye soon after, the Place where they were interred was never known.

1483.
1 Ed. V.
1 Ric. III.

The King
and Duke
murdered.

Proceedings against JANE SHORE, the Wife of — SHORE, Jane Shore.
Citizen of London, for Treason, Witchcraft, and
Adultery. Anno 1483. I EDW. V.

1483.
Ed. V.
Charge
inst her.

Pa-
cc.

History.

THE Prisoner Mrs *Jane Shore* being charged with Treason, Witchcraft and Sorcery, was apprehended and brought before the Protector and the Privy Council, and her Effects siezed, to the Value of three thousand Marks, as forfeited to the King; but she made so good a Defence before the Council as to the Treason and Witchcraft she was charged with, that she was acquitted of those Crimes, and thereupon ordered to be prosecuted in the Bishop of London's Court for committing Adultery with the late King *Edward IV.*, and being false to her Husband's Bed; of which being convicted, she was condemned to do Penance: which she accordingly did the Sunday following, at *St Paul's Church* in the following manner (according to *Sir Thomas Moor*): Being deprived of all her Ornaments, and clothed in a white Sheet, she was brought by way of Procession, with the Cross carried before her, and a wax Taper in her Hand, to the Church of *St Paul*, from the Bishop's Palace adjoining, through great Crowds of People gathered together to behold her; and there standing before the Preacher, acknowledged in a set Form her open Wickedness, and declared her Repentance for it. In all this Action, she behaved her self with so much Modesty and Decency, that such as respected her Beauty more than her Fault, never were in greater Admiration of her than now: For she being a beautiful and handsome Woman, wanting nothing in her Face but a little Blush; this shameful Act supplied that so well, that she appeared more lovely for it; and as to such as were glad to see Sin corrected, yet they pitied her, because they knew that the Protector did it more out of Hatred to her Person than Sin; more out of Malice than a Love to Virtue.

This Woman was born in *London*, virtuously educated, and well married to a substantial and honest Citizen; but being drawn to the Match rather by Interest than Affection, by her Parents

Judgment than her own Inclination, she never had that Fondness for him that joins a Wife inviolably to her Husband's Bed. This Looseness to her Husband, with that natural Ambition and Affection of gay Cloathing and Greatness, which is usually in Women much above their Fortunes, though almost never so great, disposed her to accept of the King's kindness when offered: Who besides that he was a very handsome and lovely Person, could easily gratify her Desires, and by fulfilling his Lusts, she knew she had the Mastery of his Gifts and Treasure, and for these Reasons she became his Concubine. Her Husband (though made unhappy by her Lewdness) yet carried his Resentment evenly; and after the King had abused her, never would have any thing to do with her; whether out of Reverence to the King's Person, or out of a principle of Conscience, it is not easy to determine; though both might concur. She lived many Years in King *Edward's* Court, and though that King had many Concubines, and some of them of much greater Quality than herself; yet he loved her best for her merry and ingenious Behaviour. In this great though bad Station, she demeaned her self with admirable Prudence, and was not exalted by the King's Favour; but always used it with as much Benefit to others as to her self; for she never abused the King's kindness to any Man's hurt; but always used it to their Comfort and Advantage. Where the King took Displeasure against any Man, she would mitigate his Anger, and appease his Mind; and such as were out of Favour, she would reconcile. For many heinous Offenders she obtained Pardon; and got a Relaxation and sometimes a total Remission of large Fines: And though she was the only effectual Suitor almost at Court for such as wanted Places and Preferments, yet she made little advantage to her self by it; expecting none or a very small Reward, and that rather Gay than Rich; either because

1483.
Ed. V.

1483.
1 Edw. V.

she was content with doing a Kindness, or delighted to be sought to; for wanton Women and wealthy are not always covetous. In fine, her Lewdness was her only Fault, and though that was great enough, yet to have a King for her Bed-Fellow is such a mighty Temptation, that if no Woman would condemn her before they have the like Trials, it is to be feared she'd have few to cast a Stone at her. She was Affable and Obliging, Generous

and Charitable; and though indeed she was reduced to a miserable Poverty in her Old Age, a just Punishment for her Sin, yet it was a Reproach to many Thousands, that she was so, whom she kept from Beggary; and if they had been grateful to requite her for those Kindnesses in her Want which she scorned to sell in her Prosperity, she might have lived to her Death in a Condition great enough for her Birth and Degree.

1483.
1 Edw. V.

Duke of
Bucks and
others.

Proceedings against HENRY STAFFORD, Duke of Buckingham, Sir GEORGE BROWN, Sir ROGER CLIFFORD, Sir THOMAS ST LEGER, and others for High Treason. Anno 1483. 1 RICH. III.

1483.
1 Rich. III.
Their
Crimes.

THERE was no formal Charge preferred against the Duke, and the rest of the Conspirators: But as to the Duke it was notorious, he had raised Forces to depose King Richard, and place the Earl of Richmond on the Throne; and was actually upon the March to join his Friends in *Devonshire*, when there happened such a Flood that rendred their Conjunction impracticable; whereupon the Conspirators dispersed, and the Duke endeavoured to conceal himself in the House of *Humphry Banister*, who had been his Servant; but *Banister* either out of Fear or Covetousness thereupon discovered the Duke his Master to the Sheriff of *Shropshire*, who found him in a Disguise digging in a Garden, and carried him to *Shrewsbury*, where King Richard was. The Duke begged he might see the King, having some Hopes possibly that he might save his Life, by putting him in mind of former Services; others imagined he designed to have killed Richard, if he had been brought before him, a Dagger being found in his Bosom after he was dead. But the King sent his Agents to him, and having drawn out of him what they could in Relation to the Plot, ordered his Head to be struck off in the Market-Place, which the Duke had little reason to complain of, as he had been Instrumental in taking away the Lives of many other Noblemen by the like arbitrary Sentences. Sir George Brown, Sir Roger Clifford, and Sir Thomas St Leger his Confederates, were executed at London.

After which King Richard granted a Commission to Sir *Ralph Ashton*, whom he constituted Vice-Constable of England; *pro hac vice*, to try such of the Conspirators as had not the good Fortune to escape in a summary way. This Gentleman condemned and executed great Numbers in the western Counties, who were supposed to have favoured the last Insurrection, without allowing them a Trial by a Jury, or regarding whether Legal Evidence was produced against them or not: If they were guilty in the Opinion of the Vice-Constable, that was held sufficient to put them to Death.

A Parliament being summoned to meet in *January* the Year following, the Proceedings against the Conspirators were approved, the Earl of Richmond and all his Adherents were attainted and their Estates confiscated; for the cutting off the Conspirators in that summary way, would not have entitled the King to their Estates, or attainted their Blood, without the Aid of an Act of Parliament.

This was that Duke of Bucks, who assisted and supported Richard III to usurp the Throne, and perpetrate all those Villanies which were transacted in his Reign.

As to Richard III himself, he was the next Year killed at the Battel of *Bosworth*, whose Defeat made way for his Rival, the Earl of Richmond (afterwards Henry VII.) to mount the Throne.

The Lord Bacon speaking of the Death of King Richard, and how ignominiously

1483.
1 Rich. III.

Richard III.
killed at the
Battel of
Bosworth.

Execut
withou
Trial.

1483. *Rich. III.* ly his dead Corps were treated by the People, says, they were not censured for it, no Man thinking any Ignominy or Contumely unworthy of him that had been the Executioner of King Henry VI, (that innocent Prince) with his own Hands; the contriver of the Death of the Duke of Clarence, his Brother; the Murderer of his two Nephews, (one of them his Lawful King in the Present, and the other in the Future, failing of him); and vehemently suspected to have been the Poisoner of his Wife, thereby to make vacant his Bed, for a Marriage within the Degrees forbidden. And although he were a Prince in Military Virtue approved, Jealous of the Honour of the English Nation, and likewise a good Law-Maker for the Ease and Solace of the common People; yet his Cruelties and Parricides in the Opinion of all Men, weighed down his Virtues and Merits, and in the Opinion of Wise Men, even those Virtues themselves were conceived to be rather feigned, and affected Things to serve his Ambition, than true Qualities ingenerate in his Judgment and Nature.

It may be proper to take Notice here, That the Attainders of those Noblemen and Gentlemen, who were attainted by Parliament in the last Year of King Richard, were reversed the following Year by the first Parliament of Henry VII. For several of the Gentlemen elected to serve in this Parliament, having been among

the Number of those that were attainted, and the Opinion of the Judges demanded as to the Legality of their sitting in the House, it was resolved, That the Knights and Burgeses attainted by the Course of Law, should forbear to come into the House, till a Law was made for the Reversal of their Attainders.

And it being moved what should be done for the King himself, who likewise was attainted: It was unanimously resolved, That the Crown takes away all Defects and Stops in Blood, and that from the time the King did assume the Crown, the Fountain was cleared, and all Attainders and Corruption of Blood discharged.

After the passing the aforesaid Act, a Bill was brought in for attainting the King's Enemies, viz. The late Duke of Gloucester, calling himself Richard III, the Duke of Norfolk, the Earl of Surrey, Viscount Lovel, the Lord Ferrars, the Lord Zouch, Richard Ratcliffe, William Catesby, and others; by the Confiscation of whose Estates, the King raised so much Money, that he had no occasion to demand any Supplies of his Subjects during this Session.

Of those that were attainted, King Richard, the Duke of Norfolk, the Lord Ferrars, Sir Richard Ratcliffe, and Catesby were then Dead, being killed at the Battel of Bosworth. The reason of attainting them in Parliament, was to give the King a Title to their Estates.

1483. *Rich. III.*

The Reversal of the Attainder of King Henry VII judged unnecessary.

The Duke of Norfolk, &c. attainted.

Some of them dead before their Attainders.

Proceedings against JOHN A CHAMBERS, and his Accomplices, for the Murder of the Earl of Northumberland, and for Treason and Rebellion. Anno 1489. 5 HEN. VII.

JOHN d Chambers and his Accomplices might have been convicted in the Courts of Law of High Treason, as well as of Murder; but it does not appear they were allowed a Trial even by Martial Law. Nothing was more common in those times, than to hang up Prisoners taken in actual Rebellion without any manner of Trial; but if our Historians do not inform us, by what Authority the Prisoners were put to Death, they were very particular as to their Exe-

cution; they related that they were brought to the City of York, and their Leader John d Chambers being hanged upon a Gibbet two Stories high, great Numbers of his Accomplices were hanged upon a square Gallows a Story lower round about him.

This Insurrection, for which the Prisoners were executed, was occasioned by the rigorous levying of a Tax that had been granted to the King in the preceeding Parliament, which the People of the North

John d Chambers.

1489. 5 Hen. VII.

The occasion of this Rebellion.

1489. 5 Hen. VII. Charged with Treason.

Executed without Trial.

The Attainders of the Duke of Bucks, &c. reversed.

1489.
5 Hen. VII.

North requiring some Abatement of, the Earl of Northumberland wrote up to Court to know the King's Pleasure; to which his Majesty answered, that he would not abate them one Penny of what had been granted by Parliament; whereupon the Earl assembled the Gentlemen and Principal Freeholders of the County, acquainting them that the King insisted on the whole Tax, and at the same time threatened to punish them severely, if they continued to refuse the Payment of the Duty, which induced the People to believe that the Earl himself was the Author of this Advice, and assembling in great Numbers, they attacked the Earl in his own House and murdered him; and

expecting the King would severely revenge the Outrage, they were animated by the said John à Chambers to break out into open Rebellion, and elect Sir John Egremont, a Malecontent Knight, for their General; but the King sending a Body of Troops against them, under the Command of the Earl of Surrey, the Rebels were defeated, and John à Chambers, with some of his Accomplices, taken and executed in the manner above related; but Sir John Egremont their General made his Escape into Flanders, where he was kindly received by the Lady Margaret, Dutchesse of Burgundy, a most implacable Enemy to Henry VII.

1489.
5 Hen. VII.

Lord Fitz-
Walter, Sir
William
Stanley, &c.

Proceedings against JOHN RATCLIFFE Lord Fitz-Walter, Sir SIMON MOUNTFORD, Sir THOMAS THWAITS, WILLIAM DAUBIGNY, ROBERT RATCLIFFE, THOMAS CRESSENOT, THOMAS ASHWOOD, and Sir WILLIAM STANLEY Lord Chamberlain. Anno 1494. 9, 10 HEN. VII.

1494.
9, 10 H. VII.
The Charge.

IT appears from the Rolls of Parliament that the Lord Fitz-Walter was attainted for divers Treasons and Rebellions generally, but I don't find any particularly specified; though it appears from History, that his Crimes were adhering to Perkin Warbeck, the Pretender of those times, conspiring to depose King Henry VII, and set the said Perkin Warbeck (then held to be the Earl of Warwick, Son of the late Duke of Clarence) upon the Throne.

The same Charge was preferred against the rest of the Prisoners; but whether they were all attainted by Parliament, or tried and convicted in the ordinary Courts of Law, does not appear, only from the Lord Bacon's account of these Prosecutions, Sir William Stanley, Lord Chamberlain, seems to have been convicted in the Court of King's Bench at Westminster, upon his own Confession: Sir Simon Mountford, Robert Ratcliffe, and William Daubigny, were immediately executed;

They are
convicted
and execu-
ted.

and the Lord Fitz-Walter afterwards, on attempting to make his Escape out of Prison at Calais, where he was confined: Sir William Stanley, the Lord Chamberlain, also was beheaded in pursuance of his Sentence; whose great Services in setting the Crown upon the Head of Henry VII it was presumed would have induced his Majesty to have pardoned him; especially as he was Brother to the Earl of Derby, the King's Father-in-Law, and there was a most powerful Intercession of the Nobility in his Favour. But our Historians suggest, he was too wealthy to escape the King's rapacious Hands; for in his Castle of Holi alone was found to the Value of forty Thousand Marks. The King also was informed, that the Lord Stanley had said, That if Perkin was really King Edward's Son, he would never bear Arms against him. Which was preferring the Title of the House of York to that of Lancaster, a Crime that Henry never forgave.

1494.
9, 10 H. VII.

Proceedings

Proceedings against One Hundred and Fifty Prisoners, ^{150 Prisoners}
all of them executed by Martial Law. Anno 1495.
10 HEN. VII.

1495.
Hen. VII.
The Charge
against them.
executed by
arbitrary
sentence.

THE Prisoners Crimes were their adhering to *Perkin Warbeck*, and making a Descent on the Coast of *Kent* in his Favour; where being taken Prisoners, the King caused them all to be hanged up without Mercy: He thought says the Lord *Bacon*, where Gentlemen were concerned, it was sufficient to punish a few for an Example to the rest; but as these were a Scum of rascally People of

different Nations, they ought to be cut off every Man.

1495.
10 Hen. VII.

Perkin Warbeck himself was embarked in this Expedition, expecting to have been joined by the *Kentish* Men; but wisely kept himself on Board his Ship, till he saw how his People were received, and finding them treated as Enemies, he made his Escape to *Flanders*.

Proceedings against JAMES TWITCHET, Lord Audley, ^{Lord Audley, &c.}
THOMAS FLAMMOCK, Gent. and MICHAEL JOSEPH
Farrier, for High Treason, Anno 1497. 12 HEN. VII.

1497.
Hen. VII.
Their
Crimes.
executed by
arbitrary
sentence.

THE Prisoners were taken in open Rebellion against the King, who was then in the Field in Person, and consequently there needed no Proof of their Guilt, nor were they allowed the Benefit of a Tryal in the Courts of Law; the Lord *Audley* however had the Favour of being beheaded on *Tower-hill*, and the other two Leaders, *Flammock* and *Joseph*, were executed at *Tyburn*, and all the rest of the Rebels were pardoned.

The Occasion of this Rebellion was the levying a Subsidy in *Cornwall*, which had been granted the preceding Parliament. *Flammock*, who pretended to have some Skill in the Law, and *Joseph* the Farrier, had informed the *Cornishmen* that there was no Necessity for these Taxes, that the Service of Eschage was intended to defend the Borders against the *Scots*, and they had no other Enemies; advising them to march into *Kent*, where they would not fail to be joined by that brave People who were never con-

quered, and then they would be strong enough to force their Way to the King with a Petition against those Ministers who had advised his Majesty to oppress the People with such unnecessary Taxes. Whereupon they assembled to the Number of twenty Thousand Men, armed with Bows and Arrows, Halberts, black Bills and Pikes; and having elected the Lord *Fitzwalter* their General, on their Arrival at *Welles*, they continued their March without plundering the Country, or doing any manner of Mischief, till they arrived at *Blackbeath*; but being disappointed of the Assistance they expected from the *Kentish* Men and the City of *London*, and having neither Artillery, Fire-arms, or experienced Generals, they were easily defeated and dispersed by the King's Forces; fifteen hundred or two thousand of them being killed in the Field of Battle; after which their three Leaders were executed in cold Blood, as has been related already.

1497.
12 Hen. VII.

Perkin and
the Earl of
Warwick.

*Proceedings against PERKIN, or PETER WARBECK, and
EDWARD Earl of Warwick, for High Treason. 1499.
15 HEN. VII.*

1499.
15 Hen VII.
The Charge
against them.

THE Treasons these Prisoners were charged with, were their conspiring to depose King Henry VII, and advance the said Earl of Warwick to the Throne; and corrupting their Keepers, in order to make their Escape, and accomplish the said Treasons.

Perkin was arraigned and convicted before Commissioners of Oyer and Terminer at Westminster, and soon after condemned and executed as a Traytor at Tyburn.

The Earl was arraigned the 21st Nov. 15 Hen. VII, before his Peers, John Earl of Oxford sitting as Lord High Steward, and being advised to confess himself guilty, as the likeliest way to obtain Pardon, he received Sentence of Death as a Traytor, and was beheaded on Tower-hill on the 28th of the same Month of November; and on the 25th of January following, the Sentence was confirmed by an Attainder in Parliament.

Their Execution.

The Occasion of that Prosecution.

The Patience of King Henry VII had been sufficiently exercised by two Pretenders, namely, Lambert Simnel and this Perkin Warbeck. Simnel was the Son of a Baker, a beautiful young Fellow, instructed by one Richard Simon, a Member of the University of Oxford, to personate the late Duke of York, Brother to King Ed. V; but a Rumour being spread about this time, that the above-said Earl of Warwick (Son to the Duke of Clarence) had made his Escape out of the Tower, Simon and his Adherents alter'd their Scheme and thought fit to call their Pupil (Lambert Simnel) Earl of Warwick: And the King having yet made no Alteration in the Ministry in Ireland, it was thought proper he should make his first Appearance in that Kingdom: And the Impostor was so well instructed to act his Part, that the Deputy of Ireland, upon his Arrival there, really took him for the Nobleman he personated, and assigned him the Castle of Dublin for his Residence.

King Henry on the other Hand, to

undeceive the People, in relation to the Escape of the Earl of Warwick, ordered him to attend at a solemn Procession to St Paul's, where all the Citizens of London might have an Opportunity of viewing him. At which Time several Persons of Distinction who were well affected to the House of York, had an Opportunity of conversing freely with the Earl, that they might contribute to undeceive the People; after which he was committed to the Tower again. However the Irish still gave out, that Simnel was the real Earl of Warwick, and the Person the King had exposed at St Paul's a Counterfeit, and proceeded to proclaim Simnel their King by the Name of Edward VI, and crown'd him at Dublin. In the mean Time the Earl of Lincoln, Son of the Princess Elizabeth, Sister to the two last Kings, made his Escape over to Flanders to Margaret Dutchess of Burgundy, another of the late King's Sisters, who being exasperated when she saw how King Henry endeavoured to depress the House of York, and get the Crown settled upon himself and his Issue to the Exclusion of the Queen her Niece, became his avowed Enemy, and readily gave Protection to all the English Malecontents: And the Irish had no sooner proclaimed the Earl of Warwick King, but she sent them a Reinforcement of two Thousand Germans, commanded by Colonel Martin Stuart, who was accompanied thither by the Earl of Lincoln, the Lord Lovel, and the rest of the English Malecontents in her Court; which so encouraged Perkin's Adherents in Ireland, that they ventured to embark for England, and landed in Lancashire, but were defeated by the King's Forces near Newark; the Earl of Lincoln and Colonel Stuart were killed in the Battel, and the Lord Lovel drowned in the Trent, in his Retreat, as is supposed, for he was never heard of more. Simnel and his Tutor being taken Prisoners, Simnel was made a Turnspit in the King's Kitchen, and afterwards

1499.
15 Hen. VII.

1499.
Hen. VII.

one of his Falconers; but the Priest was committed to some private Prison, and it was never known whether he died a natural Death, or by the Hands of the Executioner.

The next Pretender that was played against Henry VII, by the Dutcheſs of Burgundy, was the abovesaid *Perkin Warbeck*. The Dutcheſs had for ſome Years given out, that *Richard* Duke of York, Brother to the late King *Ed. V*, was living; and about the Year 1493 in the 9th Year of *Hen. VII*, ſhe met with this *Perkin*, whoſe true Name was *Peter Osbeck*, the Son of a converted Jew of *Tournay*, who having reſided ſometime in *London*, and being well known to King *Edward IV*, that Prince was pleaſed to ſtand Godfather to his Son, and to give him the Name of *Peter*; who proved a Lad of that admirable Beauty and excellent Parts, that it was ſuppoſed by many *Edward IV*, was really his Father. *Osbeck* returning to *Flanders* ſome Years after, his Son choſe to reſide among the *Engliſh* Factors and Merchants that were ſettled there, and by that Means ſpoke the *Engliſh* Language, and underſtood their Manners and Customs very well. This Lad was recommended by the Dutcheſs, as extremely well qualified to perſonate the Duke of York, being of a ſuitable Age and ſprightly Genius, and one who was ſaid to reſemble King *Edward*, whoſe Son he was to repreſent; and ſhe took Care to inſtruct him ſo well in all Paſſages it was neceſſary for him to know, relating to the Court of *England*, that it was not eaſy to diſtinguiſh him from the real Duke, even the Dutcheſs herſelf, 'tis ſaid, was ſurprized to ſee how well he acted his Part.

How long the Dutcheſs was modelling this young Lad to her Mind is very uncertain, but he firſt appeared in *Portugal* about the Time of the War in *Bretagne*; where having lived a Year, ſhe ordered him to go into *Ireland* in the Year 1492, when ſhe looked upon the War between *France* and *England* to be unavoidable. *Perkin* landing at *Cork*, and taking upon him the Title of the Duke of York, was acknowledged as ſuch by the Mayor and Aldermen of that City. King *Henry*, who was then aſſembliſhing his Army to make a Deſcent in *France*, imagined that this was a Stratagem only to induce him to lay aſide that Deſign; but when he underſtood that the *French* King had invited him to his Court, it

gave him ſome Uneaſineſs. However as he imagined the readieſt Way to compel the *French* King to abandon that Pretender, was to carry the War into his Country, he continued his Preparations.

In the mean Time *Perkin* was treated as Duke of York in the Court of *France*, having an Apartment in the Palace, and a Guard aſſign'd him; and a great many Malecontents thereupon reſorted to him from *England*. But a Peace being negotiated ſoon after between King *Henry* and King *Charles*, *Perkin* and his Adherents were obliged to quit the Court of *France* a little before the Concluſion of it, and retired to the Court of the Dutcheſs of Burgundy in *Flanders*.

The Dutcheſs pretending ſhe had never ſeen *Perkin* before, and to be in doubt whether he was the real Duke of York, examined him before a great Number of Lords and Perſons of Diſtinction; but he gave ſuch pertinent Answers to every thing that was demanded of him concerning the Court of *England*, and the manner of his Eſcape from the Tower, that ſhe declared herſelf convinced he was her Nephew, the ſecond Son of *Edward IV*. And the Report that this Prince was alive, gained Credit even in *England*, where the Yorkiſts and many of the *Lancſtrians* having been diſobliged by the King, became Malecontents, and entered into a Conſpiracy to dethrone *Henry*, and ſet the Duke of York upon the Throne, if upon enquiry they found he was not a Counterfeit. The principal Conſpirators were the Lord Chamberlain, Sir *William Stanley*, the Lord *Fitz-walter*, Sir *Robert Clifford*, Sir *Simon Montfort*, *William Daubigny*, *Robert Ratcliffe*, *Thomas Creſſenor*, *Thomas Aſhwood*, Sir *Thomas Ibwaits*, and *William Barley*. Clifford and Barley were ſent over to *Flanders* by the reſt to endeavour to diſcover if *Perkin* was not an Impoſter, and to concert Meaſures with him and the Dutcheſs of Burgundy, if they found he was what he pretended to be; and upon Clifford's writing Word to his Friends in *England* that he knew him to be the Duke of York, the Conſpirators prepared their Friends to receive him; of which the King having ſome intimation, took all poſſible means to undeceive his Subjects; to which Purpoſe he apprehended *Tyrrel* and *Dighton*, the only Perſons living who were ſuppoſed to have been concerned in the Murder of the late King *Edward V*, and his Brother the Duke of York, and

cauſed

1499.
15 Hen. VII.

1499.
15 Hen. VII. caused them to be examined privately. He gave out that they both confessed the Murder, and that the Bodies of the two Princes were buried under a Stair-case adjoining to their Apartment, by a Priest; and that afterwards the Priest, by King *Richard's* Order, removed them to some other Place which could not be known, because the Priest was dead. These Confessions gave but little Satisfaction, inasmuch as the Witnesses were supposed to be influenced by the fear of Death or Torture, and the less because their Examinations were taken in private, and the Bodies of the Princes could no where be found.

Another Method the King took to discover the Imposture, was by sending Spies over to *Flanders*, pretending to be *Malecontents*; who insinuated themselves into the good opinion of the Dutchess, and the Conspirators, and thereby obtained a full Account of *Perkin's* Life and Conversation, which the King caused to be published in *England*: And that his Agents might find the greater Credit with the Dutchess of *Burgundy*, they were declared excommunicated by Virtue of the Pope's Bull every Sunday in *St Paul's*.

Among these were Sir *Robert Clifford*, who had been more confided in by the Dutchess and the *English Malecontents* than any of the Conspirators, but was gained by the King's great Officers. This Gentleman acquainted *Henry* with every Step that was taken by the Conspirators, and to his eternal Infamy betrayed several of his most intimate Friends to the King; who were apprehended and many of them executed, as appears in the preceding Prosecutions of the Lord *Fitz-Walter*, Sir *William Stanley*, &c.

Perkin however made an attempt the next Year to land in *England*; but the first Troops he sent on Shoar being defeated, he steered his Course for *Ireland*; and meeting with no better Reception there, he went to *Scotland*; and was not only entertained there by King *James* like a Sovereign Prince, but married to the Lady *Katharine Gordon*, who was nearly related to that King. And the *Scots* ventured to assemble an Army and invade *England*, in order to place the Crown upon *Perkin's* Head; but they were repulsed by the Earl of *Surrey*, General of the *English*, and obliged to retire into their own Country; and a Truce was soon after made with the *Scots*, whereby *Perkin* was obliged to leave that

Kingdom. After which *Perkin* went over to *Ireland* with his Wife and his Adherents, and receiving an Invitation there from the *Cornish Men*, he ventured to make another Descent upon *England* in the Year 1498. And being joined by some thousands of the *Cornish Men*, he published a Proclamation, stiling himself King *Richard IV*, declared King *Henry* a Tyrant and Usurper, and promised great Rewards to those who should assist in the dethroning him. He afterwards laid Siege to *Exeter*, and endeavoured to Scale the Walls, but was repulsed and forced to retire from before the Town, having no Artillery to make a Breach, and the King's Forces assembling from all Parts, he thought fit to abandon his People to the Mercy of their Enemies, and in the Night time resorted to a Sanctuary: Whereupon the *Malecontents* finding themselves without a Leader, surrendered and threw themselves upon the King's Mercy, and some of the Chiefs being executed, the rest were pardoned, but many of them ruined by exorbitant Fines and Compositions extorted from them.

Perkin's Wife being afterwards taken by a Party of the King's Army, and brought to *Exeter*, was ordered to be treated suitably to her Quality, and the King granted her a Pension for Life. She was called the *White Rose*, the Name the Dutchess of *Burgundy* had given her Husband; and being a Lady of great Beauty and Merit, was much respected in the Court of *England*. She always expressed a tender regard for her Husband, notwithstanding he was generally looked upon as an Impostor.

As to *Perkin* himself, he was so narrowly watched, that it was impossible for him to make his Escape out of Sanctuary; whereupon the King offering him his Life, he surrendered and was brought up to *London*, where the King caused him to be carried through the Streets several Days, and all manner of People allowed to converse with him, that they might be satisfied of the Imposture. He made him also publish a Confession, containing an account of his Life and Actions; which was agreeable to the Relation that has been given of them already, though every Body did not give entire Credit to it, because it was supposed to have been extorted from him. It does not appear that *Perkin* was committed to Prison at this time, I presume he insisted, not to be

1499.
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be closely confined before he quitted the Sanctuary; but he was however always attended by a Guard to prevent his escape.

The following Year 1499, *Perkin* found means to escape from his Guards, and took Sanctuary again in the Priory of *Shene*. The King it is said was once determined to take him out of the Sanctuary by force, and put him to Death; but when he considered this would infallibly render the Pope and Church his Enemies, he altered his Mind: However he prevailed on the Prior at length to surrender him on condition of sparing his Life; whereupon *Perkin* was set in the Stocks in the Palace-yard at *Westminster*, and obliged to read over his Confession again to the People with an audible Voice. After which he was committed to the *Tower*. And here it is said he corrupted the Governour's Servants, and plotted with the Earl of *Warwick* to make his Escape from thence, and depose the King; which was discovered by some of the Servants they had tampered with.

The King resolving to get rid both of *Perkin* and the Earl of *Warwick*, who gave him a great deal of uneasiness, he found no great difficulty to get them convicted at a time when neither Lords nor Commons durst dispute his Pleasure. The Earl of *Warwick*, who was about twenty four Years of Age, had been a Prisoner fifteen Years; and so closely confined, that he did not know a Hen from a Duck 'tis related. The King's Life therefore could be in no great danger from such a one. On the contrary, I find it is generally suspected that the Governour's Servants were employed by the Ministry to draw *Perkin* and the

1499.
15 Hen. VII.

Earl of *Warwick* into an Attempt to make their Escape; that they might have a Pretence to take them off. But however that was, the King contracted a heavy load of Infamy, by putting the Earl of *Warwick* to death, whose greatest Crime was his being the only Male Heir living of the House of *York*; for the Earl was the eldest Son of the late Duke of *Clarence*, Brother to *Edward IV.* and *Richard III.* The King endeavoured to shift off the Guilt from himself indeed, and lay it upon *Ferdinand* and *Isabella*, King and Queen of *Spain*, who would not ratify the Marriage-Contract between Prince *Arthur* and their Daughter *Katharine*, as was pretended, while the Earl of *Warwick* lived, lest he should one Day defeat their Issue of the Crown of *England*. But this excuse was so far from giving the People Satisfaction, that it confirmed them in the opinion that the Earl was put to death purely upon Reasons of State, and not for any treasonable Conspiracy he had been convicted of.

This unhappy Nobleman being about eight Years of Age at the Death of his Uncle *Edward IV.* was committed to the Castle of *Sheriff-Huton*, in the County of *York* by his other Uncle *Richard*, Duke of *Gloucester*, who is supposed even then to have had a view of mounting the Throne. The Earl remained in that Castle till *Henry VII.* was proclaimed King, who being jealous that one time or other the Earl might be set up against him, being the only remaining Male Branch of the House of *York*, he ordered him to be removed to the *Tower of London*, and more strictly confined; where he was kept, till *Henry* thought fit to take him off in the manner above related.

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Proceedings

Earl of Suffolk, &c.

Proceedings against EDMUND DE LA POLE Earl of Suffolk, WILLIAM COURTNEY Earl of Devon, GEORGE Lord ABERGAVENNY, Sir THOMAS GREEN, WILLIAM DE LA POLE, Brother to the Earl, Sir JAMES TYRREL, Sir JOHN WINDHAM, and others for Treasonable Practices. Anno 1505. 21 HEN. VII.

1505.
21 Hen. VII.
Their Crimes.

Sir James Tyrrel, and Sir John Windham executed.

THE first Prosecution of the Earl of Suffolk was for Murder, which the King pardoned; but obliging the Earl to appear at the King's Bench Bar and plead his Pardon, he was so disgusted that he fled over to Flanders to his Aunt the Dutchess of Burgundy, the most implacable Enemy of the House of Lancaster: And though he was afterwards reconciled to the King, and returned to England; observing that the Nation was generally disgusted at the King's Extortions, he fled to the Dutchess of Burgundy a second time, with his Brother Richard de la Pole, and entered into a treasonable Conspiracy with his Friends in England to depose the King; at least this was the second Charge against him. And the said Sir James Tyrrel and Sir John Windham were tryed, convicted, and executed as Accomplices with him in the said Treason: But there not being sufficient Evidence against the Earl of Devon, he was imprisoned in the Tower during the King's Life. William de la Pole, the Lord Abergavenny, and Sir Thomas Green also suffered a gentle Imprisonment, and were soon after set at Liberty. Which partial Proceeding, says the Lord Bacon, occasioned People to conjecture that Sir Robert Curson, whom the King employed to discover the designs of the said Conspirators, had stipulated with the King for the Lives of most of the great Men he betrayed. And that Curson might not be suspected of discovering the Plot, the King caused him to be declared excommunicated by Name, with the Earl of Suffolk, and the rest of the Malecontents every Sunday in St Pauls. Whereupon the Lord Bacon observes, That Heaven was made too much to bow to Earth, and Religion to Policy: Which is not much to be wondered at in

a Prince that made his Mammon his God. Curson having done the King what Service he could abroad, returned to England, and was graciously received at Court; but detested by the rest of Mankind who abhorred his treacherous Practices. And the Earl finding all his Schemes disconcerted in Flanders, travelled into France and Germany, in hopes of obtaining the assistance of some other Power to attack King Henry; but being every where disappointed, he returned to the Low Countries again, and put himself under the Protection of the Arch-duke Philip.

Philip afterwards succeeded to the Crown of Spain, and embarking with his Queen for that Kingdom, was driven by a Storm on the Coast of England, and compelled to come on Shore. And though they were entertained by King Henry with great Splendor; yet it seems he refused to permit them to reembark till they delivered up the Earl of Suffolk, but upon condition of pardoning him as to his Life. Whereupon the Earl was sent over and committed Prisoner to the Tower, where he remained till King Henry VIII thought fit to take off his Head in the next Reign.

The Reason whereof some relate, was because the Earl held a Correspondence with his Brother Richard de la Pole then in the French Service. Others relate that the late King Henry VII commanded his Son on his Death-Bed to take off the Earl, because he was nearly related to the Crown: But however that be, his Head was struck off on Tower Hill, by Virtue of the King's Warrant, on the 13th of April 1513. And as to his Brother Richard, he was afterwards killed in the French Service, at the Battel of Pavia. Anno 1524.

1505.
21 Hen. VII.

Proceedings

Proceedings against Sir RICHARD EMPSON, Knt. and EDMOND DUDLEY, Esq; for Extortion and High Treason. 1509. 1 HEN. VIII.

Empson and Dudley.

1509.
Hen. VIII.

Charge
against them

THE first Articles exhibited against the Prisoners, Sir Richard Empson and Edmund Dudley, were,

I. That they had committed several Persons to Prison, without suffering them to answer, till they had compounded for their Fines.

II. That they had charged People with holding their Estates *in Capite*, without suffering them to traverse the Matter, till they had paid excessive Compositions.

III. That Wards of full Age were forced to pay unreasonable Fines.

IV. That Out-lawed Persons were forced to pay half the Profits of their Lands for two Years.

V. That they usurped upon the Jurisdiction of other Courts, by determining Matters belonging to them.

VI. That they had fined Juries for not bringing in Verdicts as they directed.

their De-
ce before
Council.

The Prisoners being brought before the Council; Empson said, he could not but take it as a Favour, that he was allowed to speak for himself, considering with what Violence he was prosecuted: But to what Purpose should he speak, when the King his Master, to whom he should appeal as his Supreme Judge and Protector, had abandoned him to his Enemies, for no other Cause than the obeying his Father's Commands, and maintaining his Authority; and the People on whose equal Trial he must put his Life sought his Destruction, for executing the very Laws that they themselves had made. If he was to be punished for putting the Statutes in Execution, why did they not first repeal them? Was it ever known before, that a Man was condemned for doing Justice? Especially when the King the Chief Dispencer thereof had confirmed and warranted every Part of their Proceedings.

To which it was answered, That he had received a great deal of Liberty to speak ill, as well as to do it; and he would find at last, that he was punished for passing the Bounds of his Commission

and stretching the Law, which in itself was severe enough, chiefly to the Destruction of the Poor.

1509.
Hen. VIII

But notwithstanding they were charged with exceeding the Bounds of their Commission, and stretching the Penal Laws, to the Destruction of the King's Subjects, they had been so careful to have the King's Authority, and even his Hand to warrant the most violent part of their Proceedings, that there was little or no Foundation to prosecute them for what they had done in pursuance of their Commission: Whereupon that Charge was dropped, and they were indicted for High Treason, in Conspiring the Destruction of the present King, and the Subversion of the Government. For which I can't perceive there was any other Foundation, than their consulting with their Friends and Retainers, how to protect themselves from the Fury of the People, upon the late King's Death. However the Jury were pleased to interpret it a Treasonable Conspiracy against the Government. Dudley was tried and convicted on an Indictment for this Conspiracy at Guildhall, London, on the sixteenth of July; and Empson was found guilty of the like Indictment, on the first of October following at Northampton. However the King being conscious they were guilty of nothing worse than obeying his Father's Commands, thought fit to reprieve them till the Year following, whereupon they were both remanded to the Tower.

The second
Charge a-
gainst them.

They are
convicted.

A Parliament being held on the tenth of January following, an Act was passed for attainting the Prisoners, Empson and Dudley of High Treason there; notwithstanding they had been before convicted in the Courts of Law: However the King thought fit to reprieve them a great while; but at length to satisfy the Clamours of the People, they were beheaded on the 18th of August 1510, 2 Henry VIII. As for their Inferiour Agents, the Informers and Promoters they had employed, they were condemned to the Pillory, where

Attainted,

And execu-
ted.

1509.
1 Hen. VIII.

where they were all pelted to death, or mortally wounded, except one, who fled to Sanctuary (and this immediately after the King's Accession, long before their Masters were executed).

However, at a Parliament held the following Year 1511, the King was pleased to restore *John Dudley*, the Son and Heir of the said *Edmund Dudley*, to Blood; and in the latter end of his Reign, constituted him Lord High Admiral of England.

The Reason
of these Pro-
secutions.

The King it seems to ingratiate himself with the People, began his Reign with a general Pardon, and a Proclamation declaring, that if any of his Subjects had been wrongfully deprived of his Goods, under a Commission for levying Forfeitures in the last Reign, he should receive Satisfaction; which encouraged the oppressed People to prefer Petitions, against these Instruments of his Father's Extortions, from all parts of the Kingdom; and the Ministry thought fit to sacrifice them, to remove the Odium of these Extortions from themselves; for it is not to be supposed, that these unhappy Men durst have distressed and plundered the Nation in the manner they did, if they had not been supported and encouraged in it by their Superiours. But this has ever been the Policy of the Great Men at the Helm, when they have ventured upon any destructive Schemes to give up their Instruments, in order to turn the Fury of the People from themselves; expecting to be looked upon as Patriots, perhaps for punishing those very Facts which they themselves advised.

The Cha-
racter of the
Criminals.

The Lord *Bacon* gives the following Account of these two Court Spunges, 'They were (says that Noble Writer) bold Men and careless of Fame. *Dudley* was of a good Family, eloquent, and one that could put hateful Business into good Language. But *Empson* was the Son of a Sieve-Maker, who always triumphed in his Roguery. They were Lawyers by Profession, and Members of the Privy Council; but they converted

Law and Justice into Wormwood and Rapine. They used to indict People of various Crimes, and when Bills were found against them by the Grand Jury, they committed them to Prison, where they let them lie and languish without bringing them to a Trial; and by Threats and other Devices compelled them to compound for great Fines, tho' never so innocent. After some Time they left off proceeding by Indictment, and acted openly without any Colour or Form of Law, attacking Persons by their own Precepts, and trying them without Juries, in a summary Way. They took upon them to determine civil, as well as criminal Causes, in that manner.

'They charg'd the Subjects Lands with Tenures *in Capite*, by finding false Offices, and thereby made them liable to Wardships, Liveries, premier Seisins, and Alienations, (the Fruits of such Tenures) not admitting People to traverse such Offices. And the King's Wards were forced to pay excessive Fines when they arrived at full Age, before they could have Livery of their Lands. And when they did make Use of Jurors, they would fine and imprison them, till they gave such Verdicts as they dictated to them.

'They would not suffer those that were out-law'd in personal Actions to purchase Charters of Pardon, but insisted on the absolute Forfeiture of their Goods; and that the King ought to have the Profits of their Lands for the Space of two Years: Enriching themselves as well as their Master by their various Extortions. But they raised most Money on the penal Laws, wherein they spared none, great or small; or ever considered whether the Law were possible or impossible, in Use or obsolete, being ever attended by a Rabble of Promoters, Informers and leading Jurors, who would find either Fact or Valuation, as they were taught.

Proceedings

Proceedings against RICHARD HUNNE, of the Parish of St Margaret in the City of London, Merchant-Taylor, for Heresy. Anno 1514. 6 HEN. VIII.

Richard Hunne,

1514.
Hen. VIII.
The first
prosecution.

RICHARD HUNNE was first prosecuted in the spiritual Court by *Thomas Dryfield*, Clerk, Parson of the Parish of *St Mary Matfellow*, (*Whitechapel*) for a bearing Sheet, which the Parson claimed as a Mortuary for *Stephen Hunne*, Son of the said *Richard Hunne*, who died at Nurse in the said Parish of *St Mary Matfellow*, aged five Weeks.

Richard Hunne insisted that his Son had no Property in the said Sheet, and consequently the Parson could have no Right to it. And the Parson proceeding in his Suit in the spiritual Court, *Richard Hunne* was advised to take out a Writ of Premunire against the said *Thomas Dryfield*, the Parson, his Proctors, Aiders and Counsellors, for bringing a Subject of the King's before a foreign Jurisdiction, the spiritual Court then acting by an Authority from the Pope's Legate; and a Writ of Premunire was issued accordingly.

This affecting the Clergy in general, they agreed to make a common Cause of it, and prosecute the said *Richard Hunne* for Heresy; whereupon he was cited to appear in the Bishop of London's Court: And a *Wickliff's Bible* being found in his House, he was by *Richard Fitz-James*, the then Bishop, confined close Prisoner in the *Lollards Tower* in *St Paul's Cathedral*, and none of his Friends suffered to come near him.

He was afterwards brought before the Bishop of London at his Palace at *Fulham*, on the 2d of *December*, 1514, where several Articles were exhibited against him of the following Tenour, (*viz.*) That he had taught Tythes ought not to be paid: That Bishops and Priests were the Scribes and Pharisees that crucified Christ: That they were Preachers but no Doers of the Law, devouring all Things, and giving away nothing: That he had defended the Opinions of *Joan Baker*, convicted of Heresy; and said that the Bishops Officers more deserved to be punished for Heresy than she did: And lastly, that he had divers *English Books* in his keeping prohibited by Law, parti-

cularly the *Apocalyps*, the *Epistles*, and *Gospels*, and *Wickliff's* damnable Books, which he had been a long time accustomed to read, teach and study.

His Answer to which is said to be, That he had not spoken the Words as they were laid, but something he had said unadvisedly of the like Import; for which he asked God Pardon, and submitted himself to the Bishop's charitable and favourable Correction.

After this Examination the Prisoner was sent back to the *Lollards Tower*, where he was found hang'd in his own Girdle two Days afterwards.

The Citizens suspecting some foul Play, gave Notice to the Coroner; who having impanelled a Jury of twenty four substantial House-keepers, sat upon the Body in the Presence of the two Sheriffs of London, and it being apprehended they would find Dr *Henry Horsey* the Bishop's Chancellor and his Keepers guilty of murdering the Deceased, Application was made by the Clergy to the King and Council, and to the Judges, to influence the Jury to acquit them; and accordingly the Inquest were obliged to attend both the Council and the Judges for their Direction. Notwithstanding which the Inquest found, that Dr *Horsey* the Chancellor, *Charles Joseph* the Sumner, and *John Spalding* the Bell-ringer, had privately murdered the said *Richard Hunne*, as appears by the Verdict, which is still preserved.

Found dead
in Prison.

1514.
6 Hen. VIII.

The Verdict of the Inquest.

' This Inquisition indented and taken at the City of London, in the Parish of *St Gregory*, in the Ward of *Baynard-castle* in London, the 6th Day of September, in the 6th Year of the Reign of Hen. VIII. before *Thomas Barnewell*, Coroner of our sovereign Lord the King within the City of London aforesaid; also before *James Yarford* and *John Munday*, Sheriffs of the said City, upon the Sight of the Body of *Richard Hunne*,

The Verdict
of the Coroner's Inquest.

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The second
prosecution.

A Trial against the
Prisoner.

1514.
1 Hen. VIII.

Hunne, late of *London*, Taylor, which was found hanging in the *Lollards Tower*, and by the Oath and Proof of lawful Men of the same Ward, and of the other three Wards next adjoining, as it ought to be, after the Custom of the City aforesaid, to enquire how and in what Manner-wise the said *Richard Hunne* came unto his Death: And upon the Oath of *John Bernard*, *Thomas Stert*, *William Warren*, *Henry Abraham*, *John Aborow*, *John Turner*, *Robert Allen*, *William Marlow*, *John Burton*, *James Page*, *Thomas Pickbill*, *William Burton*, *Robert Bridgewater*, *Thomas Busted*, *Gilbert Howel*, *Richard Gibson*, *Christopher Crafton*, *John God*, *Richard Holt*, *John Palmere*, *Edmund Hudson*, *John Arunfell*, *Richard Cooper*, *John Tim*: The which said upon their Oaths, That whereas the said *Richard Hunne*, by the Commandment of *Richard Bishop of London*, was imprisoned and brought to hold in a Prison of the said Bishop's, called *Lollards Tower*, lying in the Cathedral Church of *St Paul in London*, in the Parish of *St Gregory* in the Ward of *Banard-castle* aforesaid, *William Horsey* of *London*, Clerk, otherwise called *William Heresey*, Chancellor to *Richard Bishop of London*, and one *Charles Joseph*, late of *London*, Sumner, and *John Spalding*, of *London*, otherwise called *John Bellringer*, feloniously, as Felons to our Lord the King, with Force and Arms, against the Peace of our Sovereign Lord the King and Dignity of his Crown, the 4th Day of *December*, the 6th Year of the Reign of our Sovereign Lord aforesaid, of their great Malice, at the Parish of *St Gregory* aforesaid, upon the said *Richard Hunne*, made a Fray, and the same *Richard Hunne* feloniously strangled and smothered, and also the Neck they did break of the said *Richard Hunne*, and there feloniously slew him and murdered him; and also the Body of the said *Richard Hunne*, afterward, the same 4th Day, Year, Place, Parish and Ward aforesaid, with the proper Girdle of the said *Richard Hunne*, of Silk, black of Colour, of the Value of Twelve-pence, after his Death, upon a Hook, driven into a Piece of Timber in the Wall of the Prison aforesaid, made fast, and so hanged him, against the Peace of our Sovereign Lord the King, and the Dignity of his Crown: And so the said Jury

hath sworn upon the Holy Evangelists; that the said *William Horsey*, Clerk, *Charles Joseph*, and *John Spalding*, of their set Malice, then and there feloniously killed and murdered the said *Richard Hunne* in Manner and Form aforesaid; against the Peace of our Sovereign Lord the King, his Crown and Dignity. Subscribed in this Manner, *Thomas Barnewell*, Coroner of the City of *London*.

The Bishop's Chancellor, *William Horsey*, *Charles Joseph* Sumner, and *John Spalding* Bellringer, being indicted in the King's Bench on this Inquest, the Bishop sent the following Letter to *Wolsey* the Prime Minister.

The Copy of Richard Fitz-James's Letter, then Bishop of London, sent to Cardinal Wolsey.

I beseech your good Lordship to stand so good Lord unto my poor Chancellor now in Ward, and indicted by an untrue Quest for the Death of *Richard Hunne*, upon the only Accusation of *Charles Joseph* made by Pain and Durance, that by your Intercession it may please the King's Grace, to have the Matter duely and sufficiently examined by indifferent Persons of his discreet Council, in the Presence of the Parties, ere there be any more done in the Cause; and that upon the Innocence of my said Chancellor declared, it may further please the King's Grace to award a Plackard unto his Attorney to confess the said Indictment to be untrue, when the Time shall require it: For assured am I, if my Chancellor be tried by any twelve Men in *London*, they be so maliciously set, *In Favorem hereticæ pravitatis*, that they will cast and condemn any Clerk, though he was as innocent as *Abel*. *Quare supotes beate Patre, adiuvæ Infirmities nostras, & tibi in perpetuum devincti crimus*. Over this in most humble wise I beseech you, that I may have the King's gracious Favour, whom I never offended willingly, and that by your good Means I might speak with his Grace and you; and I with all mine, shall pray for your prosperous Estate long to continue.

In the mean Time the Bishop began a new Process against the dead Body of *Richard Hunne*, for the other Points of Herefy;

A third Prosecution of *Hunne* after he was dead.

1514.
1 Hen. VIII.1514.
1 Hen. VIII.

1514.
Hen. VIII.

Heresy; and several Articles were gathered out of *Wickliff's* Preface to the Bible, with which he was charged. And his having the Book in his Possession being taken for good Evidence, he was judged an Heretick, and his Body delivered to the secular Power. When Judgment was given, the Bishops of *Duresme* and *Lincoln*, with many Doctors both of Divinity and the Canon-Law sate with the Bishop of *London*, so that it was looked on as an Act of the whole Clergy, and done by common Consent. On the 20th of *December* his Body was burnt at *Smithfield*.

The Attorney-General also was ordered not to proceed on the Indictment in the *King's Bench*, and a Pardon was obtained of the King for Dr. *Horsey* and his Accomplices. At which Proceedings the City of *London* and the rest of the Kingdom were so exasperated, that the Matter was brought before the Parliament, who in their Address to the King on this Subject, became Suitors to his Majesty, that whereas the Goods of the said *Hunne* were confiscated into the King's Hands, it would please his Grace to make Restitution of all the said Goods unto the Children of the said *Hunne*. Upon which Motion the King of his gracious Disposition did not only give all the aforesaid Goods unto the aforesaid Children, under his Broad Seal, yet to be seen, but also did send out his Warrants (which hereafter shall follow) to those that were the cruel Murtherers, commanding them, upon his high Displeasure, to redeliver all the said Goods, and make Restitution for the Death of the said *Richard Hunne*; all which Goods came to the Sum of fifteen hundred Pounds Sterling, besides his Plate and other Jewels.

The Tenour of the King's Letter to Horsey, &c. in the behalf of Richard Hunne.

TRUSTY and well Beloved, We Greet you well. Whereas by the Complaint to us made in our high Court of Parliament, on the part and behalf of *Roger Whapplot* of our City of *London*, Draper, and *Margaret* his Wife, late the Daughter of *Richard Hunne*: And whereas you were Indicted by our Laws, and for the Death of the said *Richard Hunne*, and the said Murther cruelly committed by you,

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6 Hen. VIII.

like as by our Records more at large plainly it doth appear, about the 5th Day of *December*, in the 6th Year of our Reign, the same we abhor, nevertheless we of our Special Grace, certain Conscience, and mere Motion, pardoned you upon certain Considerations us moving; particularly that the Goods of the said *Richard Hunne*, and the Administration of them should be committed to the said *Roger Whapplot*. We then supposed and intended your Amendment, and Restitution to be made by you to the Infants, the Children of the said *Richard Hunne*, as well for his Death, as for his Goods, embezled, wasted, and consumed by your Tyranny and cruel Act so committed; the same being of no little Value: And as hitherto you have made no Recompence, according to our Laws, as might stand with Equity, Justice, Right and good Conscience; and for this Cause due Satisfaction ought to be made by our Laws: Wherefore we will and exhort, and otherwise charge and command you, by the Tenour of this our especial Letters, that ye satisfie and recompence the said *Roger Whapplot*, and the said *Margaret* his Wife, according to our Laws in this Case, as it may stand with Right and good Conscience at your further Peril, so that they shall have no Cause to return unto us, for their further Remedy — in this behalf, as ye in the same tender to avoid our high Displeasure: otherwise that ye upon the sight hereof, set all excuses apart, and repair unto our Presence, at which your hither coming you shall be further advertised of our Mind.

The Parliament had gone much further, and probably attainted the Murtherers, if the Cardinal and the Convocation had not interposed. Dr *Burnet* in his *History of the Reformation*, relates, That they fell very severely upon Dr *Standish* one of the King's Council for the Arguments he had used in the Debates concerning Dr *Horsey*, in behalf of the Jurisdiction of the Courts of Law, and the King's Prerogative; and the Doctor apprehending it would go hard with him, if he were tryed before the Convocation, claimed the King's Protection, insisting that he had done but his Duty as the King's Council.

Whereupon

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Whereupon the Clergy said they did not question him for any thing he had said as the King's Council, but for some Lectures he read at *St Paul's* and elsewhere, contrary to the Law of God, and Liberties of the holy Church, which they were bound to maintain; and desired the King's Assistance, according to his Coronation Oath, and as he would not incur the Censures of the holy Church. On the other Hand, the temporal Lords and Judges, with the Concurrence of the House of Commons, addressed to the King to maintain the temporal Jurisdiction, according to his Coronation Oath, and to protect *Standish* from the Malice of his Enemies.

This put the King into great Perplexity, for he had no mind to lose any part of his temporal Jurisdiction; and on the other hand was no less apprehensive of the dangerous effects that might follow on a Breach with the Clergy: So he called for Doctor *Vessey*, then Dean of his Chappel, and afterwards Bishop of *Exeter*, and charged him upon his Allegiance to declare the Truth to him in that Matter; which after some study he did, and said upon his Faith, Conscience, and Allegiance, he did think that the convening of Clerks before the secular Judge, which had been always practised in *England*, might well consist with the Law of God, and the true Liberties of the holy Church. This gave the King great Satisfaction, so he commanded all the Judges, and his Council both Spiritual and Temporal, and some of both Houses to meet at *Black-Friars*, and to hear the matter argued. The Bill against Dr *Standish* was read, which consisted of six Articles, that were objected to him: *First*, That he had said that the lower Orders were not Sacred. *Secondly*, That the exemption of Clerks was not founded on divine Right. *Thirdly*, That the Laity might coerce Clerks, when the Prelates did not their Duty. *Fourthly*, That no positive Ecclesiastical Law binds any, but those who receive it. *Fifthly*, That the study of the Canon-Law was needless. *Sixthly*, That of the whole Volume of the *Decretum*, so much as a Man could hold in his Fist, and no more, did oblige Christians. To these Dr *Standish* answered, That for these Things exprest in the Third, the Fifth, and the Sixth Articles, he had never taught them; as for asserting them at any time in Discourse, as he did not re-

member it, so he did not much care whether he had done it or not. To the First he said, lesser Orders in one Sense are Sacred, and in another, they are not Sacred. For the Second and Fourth, he confessed he had taught them, and was ready to justify them. It was objected by the Clergy, that as by the Law of God no Man could judge his Father, it being contrary to that Commandment, *Honour thy Father*: So Churchmen being Spiritual Fathers, they could not be judged by the Laity, who were their Children. To which he answered, that as that only concluded in Favour of Priests, those in inferiour Orders not being Fathers, so it was a mistake to say a Judge might not sit upon his natural Father, for the Judge was by another Relation above his natural Father; and though the Commandment is conceived in general Words, yet there are some exceptions to be admitted, as though it be said, *Thou shalt not kill*, yet in some Cases we may lawfully kill; so in the Case of Justice, a Judge may lawfully sit on his Father.

But Dr *Vessey's* Argument was that which took most with all that were present. He said it was certain that the Laws of the Church did not bind any but those who received them. To prove this he said, that in old Times all secular Priests were married: But in the Days of *Augustine*, the Apostle of *England*, there was a Decree made to the contrary, which was received in *England* and in many other Places, by virtue whereof the secular Priests in *England* may not marry; but this Law being not universally received, the *Greek Church* never judged themselves bound by it, so that to this Day the Priests in that Church have Wives as well as other secular Men. If then the Churches of the *East* not having received the Law of the Celibate of the Clergy, have never been condemned by the Church for not obeying it, then the convening Clerks having been always practised in *England*, was no Sin, notwithstanding the Decree to the contrary, which was never received here. Nor is this to be compared to those Privileges that concern only a private Man's Interest, for the common Wealth of the whole Realm was chiefly to be looked at, and to be preferred to all other Things.

When the Matter was thus argued on both sides, all the Judges delivered their Opinions in these Words: *That all those of the Convocation who did award the Citation*

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ation against Standish were in the Case of a Premunire facias. Soon after the Lords Spiritual and Temporal, with many of the House of Commons, and all the Judges and the King's Council, were called before the King to Baynard's Castle, and in all their presence the Cardinal kneeled down before the King, and in the Name of the Clergy, said, That none of them intended to do any thing that might derogate from his Prerogative, and least of all himself, who owed his Advancement only to the King's Favour. But this matter of convening of Clerks, did seem to them all to be contrary to the Laws of God, and the Liberties of the Church, which they were bound by their Oaths to maintain according to their Power. Therefore in their Name he humbly begged, That the King to avoid the Censures of the Church, would refer the Matter to the Decision of the Pope and his Council at the Court of Rome. To which the King answered, it seems to Us that Dr Standish, and others of our Spiritual Council, have answered you fully in all Points. The Bishop of Winchester replied, Sir, I warrant you, Dr Standish will not abide by his opinion at his Peril. But the Doctor said, what should one poor Fryar do alone, against all the Bishops and Clergy of England. After a short Silence the Archbishop of Canterbury said, That in former Times divers holy Fathers of the Church had opposed the Execution of that Law, and some of them suffered Martyrdom in the Quarrel. To whom Fineux, Lord Chief Justice said, That many holy Kings had maintained that Law, and many holy Fathers had given obedience to it, which it is not to be presumed they would have done, had they known it to be contrary to the Law of God. And he desired to know by what Law Bishops could judge Clerks for Felony, it being a thing only determined by the Temporal Law; so that either it was not at all to be tryed, or it was only in the Temporal Court; so that either Clerks must do as they please, or be tryed in the Civil Courts. To this no Answer being made, the King said these Words: ' By the Permission and Ordinance of God, We are King of England, and the Kings of England in times past had never any Superiour but God only, Therefore know you well that we will maintain the Right of our Crown, and of our Temporal Jurisdiction, as well in this, as in all other Points in as ample manner as any of

our Progenitors have done before our time. And as for your Decrees we are well assured that you of the Spirituality go expressly against the Words of divers of them, as hath been shewed you by some of our Council, and you interpret your Decrees at your Pleasure, but we will not agree to them more than our Progenitors have done in former times.' But the Archbishop of Canterbury made most humble Instance, that the Matter might be so long respited, till they could get a Resolution from the Court of Rome, which they should procure at their own Charges; and if it did not consist with the Law of God, they should conform themselves to the Law of the Land. To this the King made no answer; but the Warrant being out against Dr Horsey, the Bishop of London's Chancellor, he did abscond in the Archbishop's House, till he was brought to the King's Bench, in order to be discharged. And the King not willing to irritate the Clergy too much, and judging he had maintained his Prerogative by bringing Horsey to the Bar, ordered the Attorney not to prosecute him: Accordingly when Horsey was brought to the Bar, and indicted of Murder, he pleaded not Guilty, which the Attorney acknowledging, he was dismissed, and went and lived at Exeter, and never again came back to London, either out of Fear or Shame. And for Dr Standish, upon the King's Command, he was also dismissed out of the Court of Convocation.

It does not appear that the Pope thought fit to interpose in this Matter. For though upon less Provocations, Popes had proceeded to the highest Censures against Princes, yet this King was otherwise so necessary to the Pope at this time, that he was not to be offended. The Clergy suffered much in this Business, besides the Loss of their Reputation with the People, who involved them all in the Guilt of Humme's Murder; for now their exemption being well examined, was found to have no Foundation at all, but in their own Decrees, and few were much convinced by that Authority, since upon the matter it was but a Judgment of their own, in their own Favour: nor was the City of London at all satisfied with the Proceedings in the King's Bench, since there was no Justice done; and all thought the King seemed more careful to maintain his Prerogative than to do Justice.

Lincoln, &c. **Proceedings against JOHN LINCOLN, and other Rioters,
for High Treason. Anno 1517. 9 HEN. VIII.**

1517.
9 Hen. VIII.
The Charge
against them.

THE Prisoners were charged with High Treason, in assembling in the Streets of *London*, on the Eve of *May Day*, in a riotous manner; resisting their Magistrates, breaking open the Houses of several Foreigners, and plundering them of their Goods, setting open several Prisons, and assisting the Prisoners to make their Escape.

They are
executed.

The Rioters dispersed the next Morning, great Numbers of them were apprehended and convicted of High Treason, and Gibbets set up in all the principal Streets of the City to hang them upon; but only *Lincoln* their Leader, and fourteen or fifteen more were executed: The rest to the Number of four Hundred, were led to *Westminster-Hall* with Halters about their Neck; where the King sitting on his Throne, was pleased to pardon them at the Intercession of three Queens, then in the Court of *England*, viz. *Katharine* Queen Consort, *Mary* the French Queen, and *Margaret* Queen of Scots.

The occasion
of the
Riot.

Multitudes of Foreign Artificers and Tradesmen, coming over into *England*

about this time, and underselling the Natives, occasioned a general Disgust, and Strangers were frequently abused and insulted in the Streets of *London*, for which some of the Rabble were apprehended and sent to Prison; but this enraged the People more, and *Lincoln* the Prisoner prevailed on one Doctor *Bele*, a celebrated Preacher, to set forth the Hardships of their Case in a Sermon, in order to incite an Insurrection of the Populace, and get all Foreigners expelled. And when he found the People ripe for his purpose, he took an Opportunity on the Eve of *May Day*, when the Apprentices were assembled to play at Cudgells, and other Games as usual, to call out Clubs and Apprentices, which bringing some Thousands of them together, they proceeded to commit the Outrages already related; for which *Lincoln* and some of the busiest of the Rabble were condemned and executed; but what became of Dr *Bele*, after he was committed to the Tower, does not appear, possibly his being an Ecclesiastick saved his Life.

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Duke of
Bucks.

**Proceedings against EDWARD STAFFORD, Duck of Bucks,
for High Treason, before the Duke of Norfolk, High
Steward, and Eighteen other Peers in Westminster-
Hall. Anno 1521. 13 HEN. VIII.**

1521.
13 H. VIII.
The Charge
against him.

THE Duke of Bucks was indicted in several Counties, but all the Indictments were much of the same Tenour. That on which the Peers proceeded, was an Indictment found in the City of *London*; which set forth, That the Duke intending to depose the King, and usurp the Crown, did upon the 10th of *March*, in the second Year of his Majesty's Reign, and at divers other times before and after, imagine and compass the Death of the King at *London*, and at *Tornbury* in the County of *Gloucester*. The Overt Acts laid in the Indictment, were his sending on the 24th of *April*, in the fourth Year

of the King, *John De la Court*, his Chaplain, to *Nicholas Hopkins*, a Monk, in the Priory of *Henton* in *Somersetshire*, and a reputed Conjuror, to enquire what Success his said Treason would have; to which the said Monk (having sworn the Chaplain to Secrecy) answered, *He should have all*, advising the Duke to win the Favour of the People, in order to accomplish it; and that *De la Court*, returned with this Answer to the Duke his Master the next Day.

That on the 22d of *July* following, the Duke sent again, and received the same Answer; and being asked how he knew

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The
dence

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knew it, the Monk answered, By the Grace of God: That the Duke went afterwards to the Priory of *Henton* himself, and the Monk told him, he knew by Revelation he should be King; and the Duke answered, if it should be so, he would shew himself a just and righteous Prince; and gave several Sums of Money to the Priory, and to *Hopkins* the Monk, and promised an Annuity to the Convent. That the Duke sent his Chaplain *Gilbert* to *London*, to buy rich Habits and Furniture, which the Duke made Presents of to the Courtiers and great Men, to induce them to assist him in his Treasonable Purposes. That he retained great Numbers of Men in his Service, and purchased Armour for the same end. And that on the 20th Day of *May*, in the ninth Year of the King, he sent the said *Gilbert* to *Hopkins*, who told *Gilbert*, that before *Christmas* there should be a Change, and the Duke should have the Government of all *England*.

That on the 4th of *November*, in the eleventh Year of the King, the Duke said to *Richard Knevet*, if he thought he should be sent to the *Tower*, he would do as his Father intended to have done against *Richard III.* viz. have stabbed the King with a Knife he had concealed in his Bosom, when he should be brought before him; and at the same time laid his Hand upon his Dagger, saying, if he was ill used, he would do his best to accomplish his Design; swearing by the Blood of the Lord, to confirm what he said. And that on the 10th of *May*, in the twelfth Year of the King, he told the said *Knevet*, what *Hopkins* the Monk had prophesied, concerning his being advanced to the Throne, and seemed to rejoice at it. And further, the Duke told the said *Knevet*, if the King had died in his last Illness, he would have chopped off Cardinal *Woolsey's* Head, and the Lord *Lovel's*, and that he had rather die than be used as he had been: And that the Duke said to the Lord *Abergavenny*, if the King died, he would have the Rule of the Realm in spite of all Men; and that if the Lord *Abergavenny* should betray this Conversation, he would fight him; confirming what he said with many Oaths.

The Duke pleaded *not Guilty*, denying every Word of the Charge, and desired that the Witnesses might be produced Face to Face, which was granted,

and the said *Hopkins, Gilbert* and *Knevet*, confirmed their Depositions in Court, which when the Duke and the King's Council had made Observations upon, the Duke was taken from the Bar; and the Lords having consulted together a considerable time, at length unanimously found him guilty; and the Duke being brought to the Bar again, Sentence was pronounced on him as a Traytor. The Duke answered, I never was a Traytor, but my good Lords, I bear you no Malice for what you have done; the Eternal God forgive you my Death, and I do, I shall never sue to the King for Life, though he is a Gracious Prince: I desire you my Lords to pray for me. Then the Edge of the Axe being turned towards him, he was remanded to the *Tower*, and on the 17th of *May*, he was brought to the Scaffold on *Tower Hill*, where he said he had offended the King through Negligence, and desired his Peers to take Warning by him, and all Men to pray for him, he trusted he died the King's true Man.

This *Edward Stafford*, Duke of *Bucks*, was the Son of *Henry Stafford*, Duke of *Bucks*, who was beheaded by *Richard III.* Our Historians generally insinuate, that he had hard Usage, and ascribe his Death to the Cardinal's Malice: And *Rapin* has found out, that the Duke had not a legal Trial, because all the Lords of the Kingdom were not present; whereas, when a Peer was tried out of Parliament, there never were any more Peers (sat as Judges) than the King appointed in the Commission before the late Revolution: But this was added, in order to render the Cardinal still more odious than the rest of our Historians have represented him. And after all, considering the Evidence against the Duke of *Bucks*, and that he was convicted by all those noble Peers present, without a dissenting Vote, the reflections on the Cardinal, as if he was the sole Author of this Nobleman's Death, seems a little too severe; the Peers who condemned him ought to share the reproach, if he did not deserve the Sentence. He was also attainted in Parliament 14 *Henry VIII.* and though there afterwards passed an Act to restore his eldest Son *Henry* as to Blood, his Father's Lands were not restored him; only the King granted him some few Mannors to support his Dignity. This Duke of *Bucks* was the last High Constable of *England*.

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The Duke is convicted,

And executed.

His Family.

The Evidence.

Wolsey.

Proceedings against Cardinal THOMAS WOLSEY, Archbishop of York, for procuring Bulls from Rome, &c.
Anno 1529. 21 HEN. VIII.

1529.
21 H. VIII.
The first
Charge a-
gainst the
Cardinal.

AN Information was preferred against the Cardinal by the Attorney General, on the 9th Day of *October* 1529, setting forth that he the said *Thomas Wolsey, Legatus de Latere*, Archbishop of *York*, and Primate of *England*, had in breach of the Statute of *Richard II.*, obtained certain Bulls from Pope *Clement VII.*, by Virtue of which he exercised Jurisdiction and Authority Legantine, to the deprivation of the King's Power established in his Courts of Justice; which said Bulls he caused to be publicly read in *Westminster*, (*August* 28th, Anno Reg. 15) assuming to himself thereupon the Dignity and Jurisdiction of *Legatus de Latere*, which he hath exercised from the said 28th of *August* to this Day, to the prejudice of the Right of both Secular and Ecclesiastical Persons; and that by colour thereof, he had given away the Church of *Stoke-Guilford* in the County of *Surrey* (being of right in the Donation of the Prior of *St Pancrace*) to one *James Gorton*, who also enjoyed it accordingly: All which was to the Contempt of the King and his Crown, and contrary to the aforesaid Statutes of 16 *Richard II.* Moreover, that by Colour of the said Authority, he had caused the Last Wills and Testaments of many (out of his Diocese) to be exhibited and proved in his Court, and their Goods and Chattels to be administered by such as he appointed. Also that, under Colour of the said Authority, he had made divers Visitations out of his Diocese, and drawn divers Pensions from Abbeys, to the Contempt of the King and his Laws.

He confessed
the Charge.

The Cardinals Attorneys *John Scuse*, and *Christopher Gennney*, appearing in Court in behalf of the Cardinal, on the 28th of *October*, protested in his Name, that the Cardinal did not know that the procuring the said Bulls was contrary to the Statute, or to the Contempt or Prejudice of the King; but confessed all the Facts charged upon him, to be true in the

manner and form alledged in the Information, and submitted himself to the King: Whereupon the Court pronounced the following Sentence, viz.

That the said Thomas Wolsey was out of the King's Protection, his Lands, Goods, and Chattels forfeited, and his Person liable to be seized and imprisoned.

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Judgment of
Premunire
against him.

The Cardinal going to *Westminster Hall*, and assisting there as Lord Chancellor, after the said Information was exhibited, the Dukes of *Norfolk* and *Sussex* were sent to demand the Great Seal of him; but having been constituted Chancellor for Life by Patent, he refused to deliver it till they brought an Order in Writing, which they did the next Day; and acquainted the Cardinal it was the King's Pleasure, that he should quit *Whitehall*, and retire to *Essex* or *Ashe*, a Seat belonging to the Bishoprick of *Winchester*, near *Hampton Court*: Whereupon the Cardinal resign'd the Great Seal into their Hands, and prepared for his Removal. In order to which he first took an account of his rich Furniture and Moveables, which he had committed to the Care of his Officers and Servants; among which, *Cavendish* his Gentleman relates, were a great many whole Pieces of the richest Silks and Velvets of all Colours, lying in a Gallery near *York Place (Whitehall)* that was hung with Cloth of Gold and Silver; and in the same Gallery were a thousand Pieces of fine *Holland*, and the richest Copes which were designed for his Colleges at *Oxford* and *Ipswich*. Adjoining to this Gallery were two Rooms in which there lay heap'd up an incredible Number of Gold and Silver Plate, with Books shewing the Form and Weight of every Piece. All which the Cardinal having ordered to be delivered to the King's Use, he said, *Tho' it had pleased the King to take his House ready furnished for his Pleasure, it was but just, for all that he had received from his Majesty's Bounty.*

The

1529.
H. VIII. The King however upon Application made to him in Behalf of the Cardinal, granted him his Liberty and Protection, empowering him to defend and prosecute Suits, notwithstanding his Conviction; and left him also in Possession of the Bishopricks of *York* and *Winchester* ordering him a Thousand Pounds, and four Waggon Loads of his Plate and Furniture to be deliver'd him.

The second Charge in Parliament. The Parliament meeting on the 3d of November 1529, a Bill was brought in on the first of December following, charging the Cardinal with High Treason; the Preamble whereof sets forth, that the Cardinal had taken upon him the Authority of the Pope's Legate, *a Latere*, subverted the Laws and acted in Derogation of the Prerogatives of the Crown, which they endeavoured to shew in forty four Articles, the principal whereof were these that follow, viz.

I. Whereas the Kings of *England* had no Superior, and that no Legate from the Pope ought to execute his Legantine Authority in this Realm; yet the Cardinal of *York* had obtain'd Legantine Powers from his Holiness, and exercised them here to the Prejudice of his Majesty's Prerogative, the spoiling of many religious Houses of their Goods and Substance, and had usurp'd also on the Jurisdiction of Prelates and Ordinaries.

The IVth Article charges the Cardinal with joining himself with the King in his Letters to foreign Ministers and Princes, saying, *the King and I would have you do thus; the King and I give you our Thanks, &c. using himself more like a Fellow to his Highness than like a Subject.*

The VIth Article charges, that notwithstanding the Cardinal had the Great Pox broken out upon him, he came daily to his Grace, rowning in his Ear, and blowing upon him with his infectious Breath, and pretended that it was only an Imposthume in his Head.

The XVIth charges him with ingrossing the whole Administration of Affairs, and suffering no Body to intermeddle but himself.

The XVIIIth charges, that he usurp'd the Ordinaries Jurisdiction, not suffering them to exercise it without extorting large Sums from them.

The XIXth charges, that he had not only shamefully slandered many religious Houses and virtuous Men living in them, to the Pope, but had suppressed above thirty of them, on such Suggestions; and

such Houses as had more than six or seven Monks belonging to them, tho' he was limited to that Number by the Pope's Bull.

The XXth, XXIst and XXIVth charge him with exercising an exorbitant Power in the Court of *Chancery*.

The XXVth charges him with visiting most of the Monasteries in *England*, and taking from them a twenty fifth part of their Revenue contrary to Law.

The XXVIth, That he pretended his Son *Winter* spent 2700*l.* per Annum, which he took to his own Use, and gave him but 200*l.* per Annum.

The XXVIIIth, That whereas when he desired his Majesty's Assent to be Legate, *a Latere*, he promised before the Peers he would attempt nothing, by Virtue of his Office, contrary to the royal Prerogative, or the Jurisdiction of the Ordinary, he had notoriously broken that Promise.

The XXIXth charges him with applying to the Pope for his Legantine Authority upon an undue Suggestion, *That the regular Clergy had given themselves up to a reprobate Sense, to the Slander of the Church of England.*

The XXXIVth charges him with keeping as great State as the King.

The XLIII^d, That the *Lutheran* and other Heresies reigning in the University of *Cambridge*, and certain Bishops being about to visit that University to restrain those Errors, the Cardinal commanded them to desist, and thereby encouraged the spreading of Heresies in that Body.

The XLIVth charges, that by his outrageous Pride he had long overshadowed his Majesty's Honour, and by his insatiable Avarice to obtain Riches beyond measure, had by his manifold Extortions greatly impoverished his Majesty's Subjects.

This Bill passed the House of Lords, but the Articles being debated in the House of Commons, it was generally held there was no Treason in them, and thereupon the Bill was thrown out.

On the 12th of February 1530, the King granted the Cardinal an ample Pardon, specifying all manner of Crimes he could possibly have been guilty of, neither Treason nor Felony being excepted. But at the same Time the King insisted that the Cardinal should voluntarily relinquish the Revenues of the Bishoprick of *Winchester* and of the Abby of *St Albans* to him, together with *York Place* or *Whitehall*; and left him in Possession

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session only of the Archbishoprick of *York* of all his Preferments, a Pension of a thousand Pounds *per Annum* issuing out of the Bishoprick of *Winchester*, and the value of six thousand three hundred and ninety five Pounds out of his Personal Estate, consisting of the following Articles, *viz.* three thousand Pounds in Money, nine thousand five hundred and sixty five $\frac{1}{2}$ Ounces of Plate, at three Shillings and eight Pence *per Ounce*, amounting to one thousand seven hundred and fifty three Pound, twelve Shillings and one Penny half Penny; Apparel and Household Stuff, amounting to eight hundred Pound; fourscore Horses with their their Furniture, valued at one hundred and fifty Pound; six Mules for the Saddle with their Furniture, at sixty Pound; six Mules for his Baggage with their Furniture, sixty Pound: Salt-fish to the value of ninety Pound; eight Waye of Salt, ten Pound; Implements for the Kitchen, eighty Pound; seventy Sheep, valued at twelve Pound; fifty two Oxen at eighty Pound; and wearing Apparel to the value of three hundred Pound.

But the Revenues of the Cardinal's Colleges, though actually conveyed to those Societies and their Successors several Years before, were seized to the King's use; for it appears that the Inquisition his Majesty caused to be taken in most of the Counties of *England* for the discovery of the Cardinal's Estate, had a Retrospect as far back as the fifteenth of the King's Reign, when his Eminence is charged with having incurred a *Præmunire*, and thereby forfeited all his Lands and Tenements to the Crown; so that whatever Settlements or Alienations had been made of them after that time, were adjudged void, though the Cardinal had never any other Right or Interest in the Revenues of the Monasteries, which were suppressed to endow his Colleges, than what was transferred to him by the Pope, and the King only in Trust for that use, and they had been conveyed to the use of those Colleges accordingly.

In the Month of *October* 1530, the Cardinal was apprehended at his Castle of *Caywood* in *Yorkshire* by the Earl of *Northumberland*, and charged with High Treason; he was afterwards conveyed to *Sheffield* Castle the Seat of the Earl of *Shrewsbury*; where he remained a Fortnight and then continuing his Journey towards *London*, was taken ill and dyed on the 27th of *November* at *Leicester Abby*.

The third
Charge a-
gainst the
Cardinal.

And here it may be proper to animadvert a little on the Reason of the Cardinal's Disgrace, and his Behaviour during these violent Prosecutions. It is observed by some Authors of Credit that his Ruin proceeded from some underhand Practices the King and the Lady *Anne Bolein* had discovered in the Cardinal to prevent his Majesty's Divorce from Queen *Katharine*. They suggest, that however he might appear outwardly zealous in promoting the Divorce, he was at the Bottom against it, and even wrote to the Pope himself to avocate the Cause; but this Bishop *Burnet* and others (no Friends to the Cardinal) seem to acquit him of, with a great deal of Reason, observing that his Eminence had from time to time represented to the Pope, in the most moving manner, that the separation of the Church of *England* from *Rome*, and his own destruction would prove the infallible Consequences of rejecting the King's Suit, and we find his Conjectures exactly verified.

But farther, *Wolsey* from the account the King and he himself give of the matter, was at first against the Divorce, and engaged in it purely to oblige his Majesty; but that he was very sincere in his Endeavours after he once undertook it, may be gathered from the Queen's and the Emperor's Behaviour towards him, who always looked upon him as their principal Enemy after the Suit commenced; and these Princes had no doubt a considerable share in his Fall, by countenancing these Reports that had obtained among the People of the Cardinal's double dealing; nor was the Pope without some selfish Views in promoting, or at least conniving at the Cardinal's ruin. It cannot be supposed if *Wolsey* had been in the Pope's and the Emperor's Interests, but they would have made some Remonstrances or Efforts to save him: They seem to argue with more reason therefore, who assert that his Holiness was glad to see this great Prelate disgraced, that he looked upon *Wolsey* to be a Rival for the Papacy, even in his Life time; for as the Emperor had threatned to depose the Pope, as unqualified to fill the Papal Chair on account of his being a Bastard, if he complied with King *Henry*, so the Cardinal's Agents at *Rome* had threatned the same thing, if his Holiness sided with his Imperial Majesty, which the Pope could not choose but resent; and we may consequently very well acquit the

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the Cardinal of any Contrivances in concert with the Pope or the Emperor to the disadvantage of his Sovereign. But it may be demanded, What then was the Reason of the Cardinal's indolent Conduct, and that he did not exert himself more to obtain what both the King and he are said so much to desire?

I answer, That Cardinal *Wolsey* did not only express all imaginable Zeal for the King's Cause, after he had once engaged in it, but took the properest means in the World to bring it to a happy Issue: As he was conscious his Holiness was more likely to be governed by his Temporal Interests, than by the Justice of the Cause, or any Religious Motives, he entered into a Treaty with the French King, whereby that Monarch was obliged to send an Army into *Italy*, far superiour to that of the Emperor's, and to be maintained chiefly at the Charge of *England*; that accordingly this Army did march the whole Length of *Italy*, laid siege to *Naples*, which they were upon the point of carrying, and which would have made them Masters not only of the whole Country, but of the Pope himself, when unexpectedly the confederate Army was destroyed by Pestilence and Famine, together with their Generals; having been first deserted by Admiral *Doria* and the *Genoese* Fleet, which gave the *Imperialists* an Opportunity of relieving *Naples*. These were Events which the Cardinal could not foresee or prevent, and are allowed on all Hands, to be the true Reason of the Pope's denying the Divorce, though he had actually promised to indulge the King in it, while the confederate Forces were superiour to those of the Emperor in *Italy*.

It is highly probable that when the Cardinal sent this formidable Army into *Italy*, abundantly sufficient to have influenced the Pope, and had actually obtained a Promise of his Holiness to comply with the King, he did in this situation of Affairs, assure his Majesty and Mistress *Boleyn* that they could not miss of succeeding: Which having for some time flattered themselves with, they were exasperated to the last degree with the Cardinal on their Disappointment: And gave ear to every Suggestion to his disadvantage, though he was probably perfectly innocent of any Intention to impose upon them. For it evidently appears, that it was the loss of the confederate Army that induced the Pope to take different

Measures: It was on this unexpected turn of Affairs, that the Pope sent *Campeio* positive Orders to burn the decretal Bull, and not proceed to Sentence without acquainting him; and in these Circumstances, what could *Wolsey* do more than he did? He could not give Judgment without his Colleague, and if it had been possible to prevail with *Campeio* to join with him, he knew their Sentence would be revoked at *Rome*. Very unhappy indeed it was for the Cardinal that he had appeared so sanguine in the matter at first, as to give the King and the Lady hopes of succeeding from the Influence he had on the Court of *Rome*. For this it seems they believed he had to the last, and might have obtained the Divorce if he had been Sincere. And this Apprehension of theirs, was evidently the occasion of the Cardinal's Ruin.

As to the Cardinal's Conduct on his Disgrace, it is said that being upon the Road to *Essex*, whether he was ordered to retire, he was over taken by his Friend Sir *John Norris*, who came to him with a Message from the King, and acquainted his Eminence, that he was as much in his Majesty's Favour as ever; adding that the King advised him not to entertain any desponding Thoughts, for though his Majesty seemed to have dealt unkindly with him, it was more at the Importunity of other People than out of any Anger or Resentment of his own: Whereupon it is said the Cardinal immediately dismounted, and kneeling down in the Highway in a transport of Joy, gave thanks to Heaven for this return of his Majesty's Favour: Which Action is generally censured by Historians as an Argument of a mean pusillanimous Spirit, and even his Advocate Dr *Fiddes* gives him up on this occasion; only by way of Apology for him says, That as some great Generals of approved Bravery, have on certain Conjectures lost their usual Courage and presence of Mind, so it might happen with the Cardinal at this critical Season. But for my part, I cannot look upon this Circumstance as an Argument of a mean Spirit, if the Cardinal who before apprehended his Ruin to be determined, on receiving a Message to assure him of the return of his Prince's Favour, immediately gave God Thanks upon the Spot; for what stronger inducement could he have to express his Gratitude in the Face of the World, to the great disposer of all Events, than on his being

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being rescued, as he apprehended, from a state of extreme Want and Misery, and again made easy and happy in his Circumstances; and what was still more, that he stood acquitted in the Opinion of his Sovereign of Insincerity and double dealing, with which he had been charged by his Adversaries. If these were not Motives sufficient to make a Man break out into Transports of Joy and Thankfulness, it is not easy to conceive that any thing on this side Heaven are. But after all these great Promises from the King, it appears that either his Majesty meant nothing by them, or that Mrs *Bolein* and the Cardinal's Enemies defeated all his kind Thoughts and Intentions towards this his first Minister and faithful Servant. And indeed Courtiers seldom ruin one another by Halves; they are conscious that Compassion is this Case frequently proves their own Destruction: We find the Cardinal therefore still remaining in the utmost Distress, notwithstanding he had been made to hope better things from his Master. *Cavendish* relates, that when the Cardinal with his numerous Retinue came to *Essex*, they had neither Beds or Linnen, Dishes to eat their Meat out of, or Money to buy any; which occasioned the Cardinal to write a most moving Letter to *Gardiner*, acquainting him with his Condition, and entreating him to learn what the King designed to do with him; which is looked upon as another Instance of the Cardinal's meanness of Spirit: For here, say they, in the most abject manner, he applied himself to a Person who had been his Dependant for Relief, and in the Conclusion of his Letter, says, *That he wrote it with a rude Hand, and a sorrowful Heart, subscribing himself, the most miserable Cardinal of York.* This says Doctor *Fiddes*, is a memorable Instance of the Vicissitude of what we call Fortune, to see a great Minister, who for many Years had the Direction of the Government at Home, and such an Influence in the Courts of the greatest Foreign Princes, that they perfectly dreaded him, and thought themselves happy if they could gain his Favour; to see this Minister so reduced, that he should in the most abject manner prostrate himself before a Creature of his own making, must be looked upon as a judicial Act of Providence to humble a Man who, with all his Great Qualities, had been too much elated with Prosperity.

But what was no small part of the Cardinal's Affliction, was the seeing his

numerous and faithful Servants and Dependants reduced to a starving condition with him. *Cavendish* relates, That when they were at *Essex*, *Cromwell* desiring he would consider of making some Provision for them; the Cardinal answered, *Alas Tom, you know I have nothing to give you or them, and am ashamed and sorry I cannot requite your faithful Services.* *Cromwell* afterwards proposing that his Chaplains, whom he had preferred to rich Benefices of 500 and 1000 *l. per Annum* each, should contribute towards the Subsistence of the meaner Servants; the Cardinal ordered them all to attend him in his Chamber, where when he was about to speak to them, he burst out into Tears, nor was there a dry Eye among his Dependants, says my Author. At length his Eminence having recovered himself, said, he lamented he had not provided for them better in his Prosperity, though he might have incurred the censure of the World, if he had advanced too many of his own Servants; that the King was now pleased to take away all that he had, leaving him no more than the Cloaths upon his Back, so that he had nothing to give them, and could only thank them for their Services; yet as he was conscious he had served his Prince with the utmost Fidelity, he desired they would have Patience, for he did not doubt but when the King came to consider how groundless the Charge against him was, and that there was no proportion between the Punishment and the Offence, he should be restored to Favour again; and if he was, they would not fail to participate his good Fortune: but if the King should not think fit to restore him, he would write to his Majesty, and the great Men of his Acquaintance, to retain them in their Service, who would not fail to accept of his Recommendation. After which *Cromwell*, with the Chaplains and Gentlemen of Fortune in the Cardinal's Retinue, made a Collection for the present Subsistence of the inferior Servants.

And here it may be proper to observe from those Words of the Cardinal's; *that he would recommend his Dependants to the King and other great Men, who would have a regard to the Characters he gave them;* that the Cardinal's Family was a perfect Academy, that he entertained the greatest Genius's of the Age, and among them the Sons of several of the Nobility and Persons of Distinction, who improved themselves here in the Liberal Arts, and

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were afterwards employed either in the Administration at Home, or in Foreign Negotiations. Such were most of the King's Ministers at this time: scarce any of them but what had been taken out of the Cardinal's Family, which was the reason that Persons of Distinction were proud of having their Friends and Relations in his Retinue. Nothing could recommend a Person more to the Esteem of the World, than to say he was educated in the Cardinal's Family, it being a Kind of Seminary for Ministers of State, and the highest Ecclesiastical Preferments; and by this means one would have thought the Cardinal should have so firmly established himself, that nothing could have shaken him. And had not the Resentment of two Queens, of the Pope, the Emperor, and some of the antient Nobility, particularly the great Dukes of *Norfolk* and *Suffolk*, all contributed to promote the Cardinal's Fall, he might have stood his Ground. As it was, we see the King frequently relenting, and upon the point of restoring him; on which account his Adversaries politickly contrived to banish him the Court, whereby he lost his Majesty's Ear, and his Influence on those whom he had introduced into the King's Favour.

The Cardinal finding that the King was resolved to have him at his Mercy, and that the Letter of the Law was against him, notwithstanding he had exercised his Legantine Power by his Majesty's Consent and Approbation, and even by the Royal Licence, duly executed in the matter of the Divorce, thought fit to confess he had incurred a Premunire, hoping thereby to move his Majesty's Compassion, and that he would not execute the Rigour of the Law upon him. And indeed he had received Assurances from his Majesty that he would not; but however Judgment was given against the Cardinal.

But nothing touched him so nearly as the King's seizing his Colleges, which he had reason to believe nothing but a lawless Force could deprive those Societies of.

We find him writing to the King as on his Knees with weeping Eyes, that the College at *Oxford* might stand; importuning *Cromwell* that as he had a share in establishing that College, he would interceed with his Majesty to spare the Work of his own Hands. To which *Cromwell* answered, that his Majesty was determin-

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ed to dissolve his Colleges, though whether he meant to restore them again, and found them in his own Name, he knew not. For this it seems both *Fox* and *Cromwell* had proposed to the King, as the most likely means to save the College at *Oxford*; and accordingly that was afterwards refounded in part, though not upon so noble a Plan, or endowed with those large Revenues the Cardinal at first assigned for that purpose.

But notwithstanding these Mortifications, the King frequently sent the Cardinal kind Messages, and other marks of his Favour, and made even Mrs *Boleyn* send him a Present of a Tablet in Gold that she wore; which made his Enemies very apprehensive of his being recalled to Court. Whereupon under Pretence that there were like to be some Disturbances in the *North of England*, they proposed the Cardinal's removing from *Richmond* to his Archbishoprick of *York*, where he might be Instrumental in keeping things quiet, to which his Majesty consented; and his Eminence was ordered to prepare for his Journey to *Yorkshire*; which he put off from time to time, wisely foreseeing that his Enemies would have a great Advantage of insinuating things to his Prejudice, when he should be removed so far from Court. And at last he pretended that he could not stir for want of Money; whereupon the King ordered him a thousand Pounds, and he was obliged to set forward in the beginning of the Summer 1530, with a Retinue that still consisted of 160 Persons, and above seventy Carts for his Baggage. In this Journey the Cardinal rendered himself extremely popular by his affable Behaviour, his Devotions, and the Alms he every where distributed to the Poor; insomuch that the People resorted to him in Crowds from all Parts, and seemed to pity the hard measure he had met with.

He moved forward by such slow and easy Stages, that he made it the end of *September* before he arrived at *Carwood-Castle*, twelve Miles from *York*, a Palace belonging to the Archbishoprick. Here he conversed familiarly with the neighbouring Gentry, and the Clergy of his Diocese, and proposed to reside while Preparations were made for his Instalment in the Cathedral of *York*. In the mean time as he seemed to have devoted himself to Works of Piety and Charity, and treated all Mankind with Humanity and Condescension, his former Pride was in a man-

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ner forgotten, and all the World reconciled to him. But whether his Enemies had insinuated that these popular Arts tended to reproach his Majesty's usage of him, or that they inferred from hence he had Designs against the Government, the Cardinal had been but little more than a Month at *Cairwood-Castle*, when he was arrested of High Treason by that very Earl of *Northumberland* who had formerly been his Domestick, and whom his Eminence had exasperated by breaking off the Match between him and *Mrs Anne Bolein*. The Cardinal's Physician Doctor *Austin* also was arrested and sent to *London*, with his Legs tied under his Horse's Belly; but what the Nature of the Treason was with which they were charged, does not appear, the Cardinal dying upon the Road. Certain it is, no Body was ever tried for it, from whence it is presumed his Eminence was innocent. Had he been guilty of any Practices against the Government, he must have had some Accomplices who would probably have been called to an Account. But to be a little more particular: The Cardinal began his Journey towards *London* on the 8th of *November*, and was by the King's Orders conveyed to *Sheffield-Castle*, a Seat of the Earl of *Shrewsbury*, Steward of the King's Household, where he remained a Fortnight. Here the Earl of *Shrewsbury* let the Cardinal know that he was still in the King's Favour; and that though he might suffer him to be brought to his Trial, it was more to satisfy the People, than out of any Suspicion he entertained of his plotting against the Government. But the Cardinal became so dejected at this Usage of his Majesty's towards him; one Day suffering his Eminence to be prosecuted, and another declaring himself his Friend, as he had done more than once, that it is thought to have had an Effect upon his Health; he was taken ill with the Cholick, which was followed by a Dysentery; but desiring however to proceed in his Journey to *London*, in order to manifest his Innocence, he with great Difficulty advanced as far as *Leicester-Abbey*, where the Abbot and Monks coming out to receive him, he said, *Father Abbot, I am come to lay my Bones amongst you*; and accordingly died there on the 28th of *November*. In his last Moments our Historians relate, that he said among other things, *if I had served God as diligently as I have done my King,*

he would not have given me over in my grey Hairs; from whence Bishop *Burnet*, according to his wonted Humanity, affirms, *That the Cardinal acknowledged he preferred the King's Favour to God Almighty's*; adding, *That he was unworthy of his Greatness, and deserved what he suffered*. This is the modest Censure of that very moderate Prelate.

As to the King's unsteady and unaccountable Conduct towards the Cardinal while he was in Disgrace, one Day threatening him, and seizing his Estate and Effects, and then returning part of them again, and pretending to be perfectly reconciled, both Bishop *Goodwin* and Doctor *Fiddes* were of Opinion, that the Design of this was, to make the Cardinal do what Archbishop *Cranmer* did afterwards, namely, pronounce the Sentence of Divorce in his Majesty's Favour, without, and even against the express Command of the Court of *Rome*; and they ascribe it to the Cardinal's Virtue and Constancy, that he was neither to be bribed or terrified to pass Judgment in a matter that he apprehended belonged to a superior Jurisdiction: Though it was evident the Cardinal had done all that lay in his Power, to induce the Pope to give Sentence for the King, or permit his Legates to determine the Suit in *England*. But how hardly soever the King had used *Wolsey* in his Life time, he pretended to be under a great Concern at his Death. As the King had projected the throwing off the Supremacy of the See of *Rome*, and had already issued a Proclamation against the receiving or publishing any Bulls that might affect his Prerogative; possibly he proposed to have wrought either upon the Cardinal's Hopes or Fears, and made him instrumental in the Change he was bringing about. Though there is Reason to believe, if the Cardinal had refused to concur with him in all his Projects, he would at last have sacrificed him to his Enemies. I take this Charge of High Treason therefore to be designed as a Sword pointed at the Cardinal's Head, to terrify him into the King's Measures. His Majesty's seeming Affection for his Eminence at certain Intervals, was evidently never sincere: He proposed nothing more by these Shews of returning Favour, than to make the Cardinal subservient to his Schemes.

Cardinal *Wolsey* was born at *Ipswich* in *Suffolk*, being the Son of a Butcher of that Town. He was educated at *Magdalen*

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Wolsey College in Oxford, and from thence preferred to a Benefice by the Marquis of Dorset, having had the Tuition of three of that Nobleman's Sons. Sir John Naphtan afterwards recommended him to King Henry VII to be one of his Chaplains. While he was in this Situation, Fox, Bishop of Winchester, observing *Wolsey's* great Abilities proposed his being sent to the Emperor Maximilian, on an important Affair then depending; which he managed with such Address, that he was preferred to the Deanery of Lincoln, and made the King's Almoner. Upon the Death of Henry VII he was called to the Privy Council, by Henry VIII; made Bishop of Tournay, then Bishop of Lincoln, and afterwards Archbishop of York. He was also made a Cardinal by the Pope, and Legate à Latere, and for supporting his Grandeur, according to the Lord Herbert, he had at this Time in Farm, at very easy Rates, the Bishopricks of Bath, Worcester and Hereford, in Regard the Bishops of these Places lived beyond Sea: He got also successively the Bishopricks of Bath, Durham and Winchester, which he so exchanged, as he held every one of them with his Archbishoprick; he held also in Commendam, the Abby of St Albans, and many other ecclesiastical Preferments, and had the disposing of most of the Benefices that fell void. Also, shortly after his being constituted Archbishop of York, William Warham, Archbishop of Canterbury, resigning to the King voluntarily the Place of Lord Chancellor, and retiring himself from Court, by Reason of his Age (or some Discontent) to a private Life, that Place was conferred on him. Thus were Dignities and Wealth heaped so fast on *Wolsey*, that being in his Nature insolent, he grew at length intolerable. Neither could those excellent Parts, wherewith he was endowed, exempt him; insomuch that not only much Arrogance, but extream Vanity was observed in him. This Cardinal contrary to all Example, is noted by *Polydore* to have used Silk and Gold in his outward Vestments, and even Saddles: He caused also the Cardinal's Hat to be born by some principal Person before him, on a great Height, as it were an Idol to be worshipped, (*Loco cujusdam Idoli sacri*) and when he came to the King's Chapel, would admit no Place to rest it on, but the very Altar. He had besides his Serjeant at Arms and Mace, and two Gen-

lemen carrying two Pillars of Silver, besides his Cross-bearer; concerning which it is observed, that he did bear the Cross of York some what to the Prejudice of that of Canterbury, which might be some Cause of Discontent to Archbishop Warham. In Conclusion, all his Actions were such as argued a haughtier Spirit than become his Place.

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 He was a Man (adds the Lord Herbert) in whom Ability of Parts and Industry were equally eminent; though for being employed wholly in ambitious Ways, they became dangerous Instruments of Power in active and mutable Times. By these Arts he found Means to govern not only the chief Affairs of this Kingdom, but of Europe; there being no Potentate, which in his turn did not seek to him: And as this procured him divers Pensions, so when he acquainted the King therewith, his manner was so cunningly to disoblige that Prince who did see him last, as he made way thereby oftentimes to receive as much on the other Side. But not of secular Princes alone, but even of the Pope and Clergy of Rome, he was no little courted; of which therefore he made especial Use while he drew them to second him on most Occasions, his Birth being otherwise so obscure and mean, as no Man had ever stood so single. As for his Learning (which was far from exact) it consisted chiefly in the Subtilties of the Thomists, wherewith the King and himself did more often weary than satisfy each other. His Style in Missives was rather copious than eloquent, yet ever tending to the Point. Briefly if it be true (as *Polydore* observes) that no Man did ever rise with fewer Virtues; it is as true, that few that ever fell from so high a Place had lesser Crimes objected against them. Though yet *Polydore* (for being at his first coming into England committed to Prison by him as we have said) may be suspected as a partial Author: So that in all Probability he might have subsisted longer, if either his Pride or immense Wealth had not made him obnoxious and suspected to the King, or that other than Women had opposed him: Who as they are vigilant and close Enemies, so for the most Part, they carry their Business in that Manner, they leave fewer Advantages against themselves than Men do. In Conclusion, says the Lord Herbert, as I cannot assent to those who thought him happy for enjoying the untimely

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untimely Compassion of the People a little before his End, so I cannot but account it a principal Felicity, that during his Favour with the King, all Things succeeded better than afterwards; though

yet it may be doubted whether the Impressions he gave did not occasion divers Irregularities which were observed to follow.

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The Clergy. *Proceedings against the Clergy, for submitting to a foreign Jurisdiction. Anno 1531. 23 HEN. VIII.*

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The Charge
against them.

THE Charge against the Clergy was their bringing Causes into the Legates Court, which ought to have been determined in the Ecclesiastical Courts of this Realm, contrary to the Statutes of Provisors and Premunire, and particularly 16 Ric. II. Cap. 5. by which it is enacted, that whoever shall sue in a foreign Court, shall incur a Premunire.

The great Cardinal *Wolsey* having been condemned in a Premunire a very little before for holding these Courts, the Clergy did not think fit to stand Trial with the King; tho' every one knew the Legates Courts were held by his Majesty's Concurrence and Approbation. And they had seen the King himself submitting to the Jurisdiction of the Pope's Legates in the Case of the Divorce. The Clergy of the Province of *Canterbury* therefore before the Day of Appearance thought fit to buy their Peace at the Price of an hundred Thousand Pounds. It cost the Province of *York* also eighteen Thousand Pounds and upwards to obtain the like Pardon; which so alarmed the Laity, that the Commons at first insisted that they might be included in the Act of Pardon, before it passed their House; and tho' the King did not think fit to comply with them therein, yet he soon after granted the Laity another Pardon, being unwilling to exasperate both the Clergy and Laity at once, by so unjust and tyrannical a Proceeding.

They compound with
the King.

The above said Grant of an hundred Thousand Pounds, which the Clergy of the Province of *Canterbury* made the King was founded on the following Inducements, viz. the King's great Merit, their Gratitude for the Services he had done the Church, and particularly his Zeal against the *Lutherans*, who were endeavouring to destroy the Church of *England*, of which they acknowledged his Majesty the sole Protector and supreme Head. Great Opposition being made to the Title that was given to the King of supreme Head of the Church in this Grant, *Cromwell*, and several of the Privy Council came into the Convocation, and let them know that his Majesty would look upon them as his Enemies, who opposed the giving him that Title. Whereupon the Grant passed as it had been drawn up, only this Restriction was added, as far as is consistent with the Laws of Christ. And thus modell'd it was assented to by nine Bishops (of which *Fisher* Bishop of *Rochester* was one) fifty-two Abbots and Priors, and the lower House of Convocation. The Monasteries and Colleges being excepted out of the Pardons granted both to the Clergy and Laity, were obliged to compound with the King's Offices severally, by which his Majesty also raised considerable Sums.

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The Monasteries compound.

Proceedings

Proceedings against RICHARD ROUSE, Cook, for High Treasⁿ. Anno 1531: 23 HEN. VIII.

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Charge
inst him.

RICHARD Rouse, Cook to the Bishop of Rochester, was charged with poisoning the Broth his Meat was boiled in, with an intent to have poisoned the Bishop, and actually poisoning thereby seventeen of the Bishop's Family, and the poor People who came to his Gate for Alms, of which two or three died: The Fact being very notorious, the Parliament took the matter into their own Hands, and would not suffer the Cook to be tryed by the ordinary Forms of Law, but passed an Act of Attainder, declaring the Offence High Treason, and that the Cook should be boiled to Death; which was made the Punishment of poisoning for the future. The Cook was accordingly boiled to Death in Smithfield, though the Act which constitutes this Crime High Treason, has been since repealed; and this Offence is now no more

The Fact de-
clared in Par-
liament to be
High Treas-
on.

than Felony, and tryed as other Offences of that Nature are tryed,

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Bishop Burnet in his History of the Reformation, observes that Saunders maliciously charges the Lady Anne Bolein with inciting the said Rouse to Murder the Bishop; of which Burnet affirms, there is nothing upon Record, nor does any Writer of that time so much as insinuate it. But Persons that are set on to commit such Crimes, are usually either conveyed out of the way, or secretly dispatched, that they may not be brought to an open Trial. And is it not to be imagined, that a Man who was employed by them that might have preferred him, and found himself given up and adjudged to such a Death, would not have published their Names, who set him on, to have lessened his own Guilt, by casting the Load upon them that had both employed and deserted him?

Proceedings against JAMES BAYNHAM, Esq; a Barrister of the Inner-Temple, and Native of Gloucestershire, for Heresy. Anno 1532. 24 HEN. VIII.

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The Charge
against him.

THE principal Articles of the Charge against the said James Baynham, were, 1. That he maintained that the Sacrament of the Altar was only the Mystical Body of Christ, and that his Body was not chewed with Teeth, but received by Faith. 2. That he did not believe in Purgatory. 3. That he did not believe confession to a Priest necessary. 4. That he had the New Testament and other Religious Books in English. 5. That he held Thomas à Becket to be a Murderer, and damned in Hell. And 6, He had spoken contemptuously of praying to Saints.

Sir Thomas More then Lord Chancellor, caused the said James Baynham to be apprehended and brought to his House at Chelsea, where he continued a Prisoner at large for some time; Sir Thomas at first using a great many fair Words to induce him to renounce his Errors, but finding he was not to be moved that way, the Chancellor caused Baynham to be made close Prisoner in his House, and afterwards tyed up to a Tree in his Garden and scourged severely: Then he carried him to the Tower of London, and examined him upon the Rack in order to make him discover where his Books lay,

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Tortured to
confess.

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lay, and what Gentlemen of his Acquaintance in the *Temple* were of the same Principles; which the Prisoner resolutely refusing to confess, was tortured upon the Rack till they lamed him.

Recants.

The Prisoner being carried back again to Sir *Thomas More's House* at *Chester*, was examined upon the abovesaid Articles before Dr *Stokesby* Bishop of *London*, and not giving satisfactory Answers, was remanded to Prison; but being examined afterwards before Dr *Foxford*, the Bishop's Chancellor, and threatened with the Flames unless he recanted, he made a formal Abjuration of his Principles; whereupon he was enjoined to do Penance, by carrying a Faggot on his Shoulder to *St Paul's*, and remaining there the whole Sermon, and was afterwards set at Liberty.

Relapsed.

Baynham within a Month after repenting of his Abjuration, went publickly to *St Austin's Church* with an *English New Testament* in his Hand; and standing up in his Pew before the People, he declared with weeping Eyes he had denied God; and desired the People to forgive him, and beware of his Weakness: For if I should not return again to the Truth, says he, this Book, this Word of God (holding up the New Testament in his Hand) would damn me both Body and Soul at the Day of Judgment; exhorting the People rather to dye, than to do as he had done, for he would not feel such a Hell in his Breast again for all the World. He wrote Letters also to the Bishop of *London*, his Brother, and others, declaring he repented his Abjuration: Where-

upon he was apprehended again, and a new Process began against him, and being brought before Dr *Richard Foxford*, Vice-General to the Bishop of *London* on the 19th of *April* 1532, he was condemned as a relapsed Heretick, and delivered over to the Lord Mayor and Sheriffs of *London* to be burnt, and was executed accordingly in *Smithfield* on the last Day of *April*, 1532.

Is burnt.

The Father of this glorious Sufferer was Sir *J. Baynham* a Knight of *Gloucestershire*, who having given this Son a liberal Education, he applied himself to the study of the Law, and became eminent in his Profession, as well as for his Virtue and Piety; but his Charity and Humanity to his Clients, and especially to those who were poor, was most remarkable; for he gave his Advice, and pleaded for the Widow and Fatherless without a Fee. As he was a Lawyer, I presume the zealous Sir *Thomas More* at that time the Head of the Profession thought he did God good Service in exercising a more than ordinary Severity towards this Gentleman, in order to deter the rest of the Profession from embracing what he and his Party were pleased to denominate Heresy. But by what Law the Chancellor put his Prisoner to the Torture I cannot conceive; unless it was lawful then to treat pretended Hereticks more inhumanly than the rest of the King's Subjects. However it was but a very little afterwards before Sir *Thomas* himself was exposed to arbitrary Fury, and had an opportunity of reflecting on his usage of others.

The Prisoner's Character.

Barton.

Proceedings against ELIZABETH BARTON the Nun, commonly called the Holy Maid of Kent, and the Monks her Accomplices, for High Treason. Anno 1533, and 1534. 26 HEN. VIII.

1533.
1534.
26 H. VIII.
The Charge against her.

THE Prisoner *Elizabeth Barton* was charged with pretending to Prophecy, That if the King proceeded to divorce his Queen, and marry another Wife, he should not survive it a Month, but die a Villains Death. And several

Franciscan Monks were charged with countenancing and encouraging these dangerous Speeches; and particularly that one of them preaching before the King at *Greenwich*, denounced heavy Judgments against him to his Face, telling his

1533.
1534.
26 H. VIII.

1533.
1534.
26 H. VIII.

his Majesty, That many lying Prophets had deceived him, but he, as a true Micah, warned him that the Dogs should lick his Blood, as they had done Ahabs. They also encouraged Queen Katharine to stand it out, and not submit to the King.

The King hereupon in November 1533, caused the said Elizabeth Barton and her Accomplises to be apprehended and brought before the Court of Star-chamber, among whom were the following Monks, viz. Richard Master, Dr Bocking, Richard Deering, Henry Gold, Edward Thwaites, and Thomas Lawrence; and here before a great Appearance of Lords they all confessed the Cheat, without being put to the Torture: Whereupon they were ordered to stand exposed in St Paul's during divine Service, and read their respective Confessions, which they did, and were afterwards committed to the Tower. But the Nun and the rest pretending afterwards that they were terrified into these Confessions, the King brought this Matter before the Parliament, and the Nun with Master Bocking, Deering, Richard Risby, and Henry Gold were attainted of High Treason. Thomas Gold, Thomas Lawrence, Edward Thwaites, John Addison, and Thomas Abel, her Confederates were adjudged guilty of Misprision of Treason. Sir Thomas More and Dr Fisher Bishop of Rochester, had so far countenanced the Impostor also, as to converse with her in Person, and send their Chaplains to attend her, for which the Bishop of Rochester was attainted of Misprision of Treason by the same Act of Parliament; and Sir Thomas More's Name was at first

inserted in the Bill of Attainder, but struck out on the Application of his Friends.

This Nun was originally an Inhabitant of the Village of Aldington in Kent; and being subject to hysteric Fits which distorted her Limbs and Features; she said many Things that carried an Air of Piety and Devotion in those Fits; and was generally taken by the People of the Neighbourhood to be inspired; of which the said Richard Master, Vicar of the Parish, being informed, proposed to make great Advantages, as it is said; and taught her to counterfeit Trances, and inveigh against the wickedness of the Times, and particularly against Heresy, and Innovation in Religion. Master afterwards confederating with the abovesaid Dr Bocking, a Canon of Christ Church in Canterbury; they persuaded her to choose Bocking for her Confessor, and to remove to the Nunnery of St Sepulchre's in Canterbury, where she took the Habit, and pretended to Prophecy as related already.

The Nun with the said Master, Bocking, Deering, Risby and Gold, were executed at Tyburn on the 20th of April.

The King also to shew his Resentment against the observant Friars, who principally encouraged this Impostor, expelled from their Houses those of Richmond, Greenwich, Canterbury, Newark, and Newcastle. The Insolence of those Friars is supposed to be one of the principal Inducements the King had for suppressing the rest of the Monasteries, where Visions and Miracles were too often pretended to advance the Interest of the Monks in general, or of their respective Houses.

1533
1534.
26 H. VIII.
Some account of Barton.

She and her Accomplises do Penance.

Relapse.

Attainted by Parliament.

Proceedings against JOHN HAUGHTON Prior of the Carthusian Monks of the Charter-House, ROBERT LAWRENCE, Prior of Belleval, and AUGUSTINE Prior of Shene, for High Treason. Anno 1535: 27 HEN. VIII.

Haughton and other Monks.

1535.
27 H. VIII.
The Charge against them.

THE Prisoners were indicted of High Treason in conspiring the Death of the King. And the Overt Acts laid to manifest their treasonable Intentions were, there refusing the Oath of Su-

premacy and dissuading others from taking it; for barely refusing the Oath of Supremacy was not Treason by the Act which required that Oath to be taken.

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27 H. VIII.

The

1535.
27 H. VIII.

The Prisoners before they were committed, attended on Cromwell, the Prime Minister; entreating they might be excused from taking the Oath. But Cromwell sent them all to the Tower, and within a Week afterwards, he and several more of the Privy Council came to them, demanding their Oaths to the King: The Fathers answered, they would consent to all Things, which, and as far as the divine Law would allow; but Cromwell would not allow of any exception. Then they urged that the Catholick Church did always hold and teach otherwise; and against that because of the Fear of God they dare not to go, nor to forsake the Catholick Church.

Being brought to their Trials afterwards, they said they would by no means go contrary to the Law of God, and the Doctrine and Consent of Holy Mother Church, in the least Matter. But it seems the Jury had such a Reverence for these three Fathers, that they deferred their Verdict till the next Day. When Cromwell sent to know what made them so long, and what they intended to do? They sent this Answer back, that they could not bring in such holy Persons guilty as Malefactors. Which when Cromwell heard, says the Popish Historian, he sent them Word immediately, that if they found them not guilty, they should suffer the Death of Malefactors themselves. But they still persisting in their former Judgment notwithstanding Cromwell's Threatning, he came to them himself, and so over-awed them with his Threats, that they at last brought the Prisoners in guilty of Treason; and five Days afterwards they were executed at Tyburn, being May the fourth. Prior Haughton being upon the Ladder, when one of the Council assured him of a Pardon, if he then would obey the King and the Parliaments Decree: He replied, *I call the Omnipotent God to witness, and all these good People, and beseech you all to attest the same for me, in the terrible Day of Judgment, that here being to dye, I publicly profess, that it is not out of obstinate Malice, or a mind of Rebellion, that I do disobey the King, but only for fear of God that I offend not the Supreme Majesty; because our Holy Mother the Church hath decreed and appointed otherwise than the King and Parliament hath ordained: And I am here ready to endure this, and all other Torments that can be suffered, rather than oppose the Doctrine of the Church. Pray for*

me, and pity my Brethren, of whom I was the unworthy Prior. It was said that after he was cut down he spake these Words, *Most Holy Lord Jesus, have Mercy upon me in this Hour.* And that when the Executioner was about to pull out his Heart, he said, *Good Jesu! what will you do with my Heart?* And after he was quartered, one of his Arms were set upon the House where he was Prior.

This Arm two Days after fell down, which the Friars looking upon as a Miracle, took up, and laid with his bloody Shirt in a Coffin, and disposed it of in a Place under ground, with an Inscription of the cause of his Death; intending no Question, in times more favourable to bring it forth as an holy Relick.

At the same time also were executed Robert Lawrence, and Augustine, the two other Priors; and with them one Reignolds or Reinolds, a Monk of Sion, of the order of St Bridget. The ordinary Report went among the common People that these Friars had combined together to kill the King, as charged in the Indictment.

They were hanged in their Habits; which our Popish Author lamented, because there was no Reverence shewed to the Order, or the Priestly Garments: for it was done, he observed, without any degrading. He saith also, that they were hanged with a great Rope, that they might not quickly be strangled, to endure the more pain when they should be cut down and ripped up. At their Deaths they professed, they never were disobedient to the King, unless in matters that were repugnant to the Holy Gospel and the Catholick Church; and therefore that they took their Death not only patiently but chearfully; acknowledging that they had obtained great Favour from God, that he had given them to die for the Truth, and for the Assertion of the Evangelical and Catholick Doctrine; namely, That the King is not Supreme Primate in Spirituals, and the Head of the Church of England.

Two of these Houghton and Reinolds, were of celebrated Fame for their Piety. Of the former, Cromwell, in the Chapter House of his Convent, said before a great many, that he was a just and holy Man. Of the latter, the aforesaid Author of the History of the Martyrs of England saith, that he was Doctor of Divinity, a Man full of the Spirit of God, and looked like an Angel; the Character given

to

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to St Stephen the first Martyr. At his Trial which was April 15th, he said, that he had determined to imitate the Lord Jesus when he was brought before Herod to Judgment, and not to answer any thing: But, said he, because ye urge me, that I may satisfy my own Conscience, and the Consciences of these that are present, I say, that our Opinion, if it might go by the Suffrages of Men, would have more plenty of Witnesses than yours. For, for some, which you (speaking to the Lord Chancellor) produce from the Parliament of one Kingdom, I have with me the whole Christian World, except those of this Kingdom; I do not say all of this Kingdom, because the less part is with you, and granting that the major part of the Nation follow not my Opinion, it is an external dissembling only, and for fear of losing their Dignities or Honours, or for Hope of obtaining the King's Favour. Upon this the Secretary charged him upon pain of incurring the rigor of the Law, that he should declare who those were that he spoke of. To which he answered, It was all the good Men of the Kingdom. And then he went on, that as to Testimonies of the Fathers, he had on his part all the General Councils, all the Pastors and Doctors of the Church, which were for fifteen hundred Years past; particularly Hierom, Ambrose, Augustine, Gregory. And I am sure said he, that after his Majesty shall have known the Truth of this, he will be offended above Measure with some Bishops, who gave him this Council. Then he was asked, why he did, contrary to the King's Authority within his Kingdom, dissuade many, that they should not consent to the opinion of the King and Parliament. He said in Answer, That he never declared this his opinion to any Man living, but those that came in Confession, which he could not resist in discharge of his Conscience. He said if he had not declared his Mind then, he would now declare it; because in that part he was obliged to God and his Conscience, and that in such Things he could not offend justly. After he was brought in guilty by the Jury, he said with great Constancy, this is the Judgment of the World.

On the 19th of June, three more of the aforesaid House of Carthusians, London, being found guilty of High Treason for denying to take the Oath of Supremacy, were executed (whose Names were

Humphrey Middlemore, then Vicar of the House, William Exmew Procurator thereof, and Sebastian Newdigate Priest and Monk) after a Fortnights Imprisonment, where they were said to be bound with Chains about their Necks and Legs. Being brought before the Council, they constantly professed they would not go against the Decrees and Customs of the Holy Mother Church. They alledged before the Bench from Places of Scripture, that the King could not claim to himself duly, and by Authority of God's Law, that Supremacy and Primacy of God's Church that Jesus Christ had given to the Pope and the Priests; so they were condemned to suffer the same Death with the former. These were young Men and of good Families, and Sebastian had been brought up at Court.

The King was loth to put these three Men to Death, but more loth to have his Supremacy disowned, considering the ill Consequents that might thereupon ensue. This made him send several to them in Prison, to convince and gain them over if possible; but they stood too firmly to be stirred in the least: Nay though these very Men had agreed not long before in Convocation, as the rest of the Nation had, with one Consent to the Act, that all the King's Subjects should revoke the Pope's Superiority; now they affirmed the contrary, that the Pope's Superiority was necessary to be held in order to Salvation, and that it was according to God's Law and instituted by Christ, as necessary to the Preservation of the Unity of the Church: And that the Pope was immediately Judge under Christ, on whose determination all Christians should of necessity depend.

One Friar Maurice Channey or Chauncy, of the House of Carthusians aforesaid, fled afterwards beyond Sea, and there wrote a Relation in Latin of these Sufferings of his fellow Monks, Dedicating it to John the Prior of the greater House of Carthusians, and Primate of the whole Order; out of which I have made some of these Collections. This Relation was in the Year 1550 printed with the Lives of More and Fisher in a Book intitled, *Historia Martyrum Angliæ*, by a Prior of the House of Mount St Michael near Mentz; and printed again under another Title with Additions in 1573.

After these Executions, the following Orders were published in relation to the Charter-House, (Viz.)

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An

Several Monks were condemned and executed for denying the King's Supremacy.

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27 H. VIII.*An Order for the Charter-house of London.*

First, That there be five or six Governours of temporal Men, learned, wise, and trusty; whereof three or four shall be continually there together every Meal, and lodge there every Night.

Item, That the said Governours shall call the Monks before them and all the other Servants and Officers in the House, and to shew them that the King's Grace hath pardoned them of all Heresies and Treasons by any of them committed before that Day; giving them Warning, that if they eftsones offend, to die without Mercy: And that there be a Pardon purchased to them all under the King's Great Seal.

Item, That the same Governours take the Keys from the Proctors and other Officers, and to govern the House and receive all Rents, and make all Payments, and to be accountable to the King's Grace thereof.

Item, That the said Governours call all the Monks to them severally one after another, at Dinner-times; and to examine them of all their Opinions, and to exhort them to the Truth, shewing them, that if any of them will, he shall have a Dispensation to leave that Order, and to live otherwise, and to have a convenient Stipend for a Year or two, till he have provided himself of a Living, so that he conform himself to the King's Laws, and to endeavour himself to learn and to preach the Word, which every Priest is bound to do. And yet by their Religion, as it is said, they have professed falsely the contrary, that none of them shall ever preach the Word of God.

Item, To put all the Monks to the Cloister for a Season: And that no Man speak to them but by the License of one of the said Governours.

Item, To take from them all Manner of Books, wherein any Errors be contained; and to let them all have the Old Testament and the New Testament.

Item, To cause them to shew all their Ceremonies: And to teach them and to exhort them to leave and forsake all such Ceremonies that be nought.

Item, If they find any of them so obstinate that in no wise will be reformed, then to commit him to Prison, till the Council may take some other Direction

for them. And they that will be reformed, to sever them from the Company of the Obstinates, and to be gently handled, and to cause them to utter the Secrets and Mischiefs used among them.

Item, There should be three or four Times every Week during this Visitation, a Sermon made by some discreet well-learned Man, and all the Monks, Officers and Servants, to be caused to be there present, none Exception, save only Sicknes: And the said Preachers to have their Chambers there, and Meat and Drink, that they quietly study therefore during that Time.

Item, The Lay-brethren be more obstinate, and more forward, and more unreasonable than the Monks; therefore they should be likewise examined, and the Obstinates punished or expelled: And the others kept for a Season, for Knowledge of divers Persons of them to be had.

The King, Lord *Herbert* relates, was troubled at these Executions, and would have been glad not to have been compelled to take these violent Courses; and that to express his Sorrow, he caused his Head to be shaved, and his Beard to be cut round. However it appears that he soon after proceeded to make still greater Examples of his Vengeance, being determined at any Rate to support the Supremacy he had assumed.

The Monks of the *Charter-house* remaining still refractory, Endeavours were used to reclaim them and enlighten them (according to Mr *Strype*) with a clearer Knowledge of the Nature of the Supremacy, being for the most part young Men. It was thought expedient therefore to separate them from one another. Four of the Chief were disposed into two other Houses of the same Order, in the farthest Part of the Realm: And eight more were sent to *Sion*, an House of the Order of St *Bridget*, that they might there be persuaded to yield to the King. At last many of them took the Oath, having been threatened otherwise to have their House pluck'd down. But while they took the Oath, they said in their Hearts, Thou knowest, O God, how false and unjust this Oath is, that these Men wrest from us, thou knowest what Exceptions and Alleviations we have alleged, thou seest the Straights of Time, and how we are threatened. But Skin for Skin, all that a Man hath will he give for his Life. Evil is not to be done, that

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that good may come; but since thou knowest the Hearts of all Men, and how willingly we resist them, we beseech thy Mercy not to respect the manner which we perform outwardly, in laying our Hand upon the Book of the Gospel, and kissing it: Nor take it as if we were assenting to the King's Will; but take this our outward Dissimulation as our Reverence to the Sacred Word written in the Gospel, for the preservation of our House, if it shall please thy Goodness. But there were ten Monks that thought not fit thus to dissimble; and they were put out of the Convent, in June 1537, and laid in Prison: Where, saith their Historian, they all died but one, named William Horne, who in 1541, was put to Death. Two of the Four that were removed from this House were placed in a House of Religion near Hull, where they were busie in the Rebellion that happened this Year in the North, and so were executed and hung in Chains at York 1537 whose Names were John Rochester and James Wannert. In the Year 1539, all of them that remained were expelled their House, consisting of twelve professed Monks, three Guests, and six Converts professed. In the Church the King's Tents and Ammunition were laid. The House was afterwards given to Sir Edward North, who there built himself a fair Dwelling, and made a Parlour of the Church, pulling down most of the Cloisters.

The State of the Monks of the Charter-House that were still against the King's Supremacy, Anno 1537, when the Surrender of it was made, may appear from Thomas Bedyl, the Visitor's own Letters to Cromwell, giving an account of the great Mortality among them. (Viz.) My very good Lord, after my most hearty Commendations; it shall please your Lordship to understand, that the Monks of the Charter-House here at London, committed to Newgate for their treacherous Behaviour continued against the King's Grace, be almost dispatched by the Hand of God, as it may appear to you by this Bill enclosed, [which follows at the end of the Letter]. Wherefore considering their Behaviour, and the whole matter, I am not sorry, but would that all such as love not the King's Highness and his worldly Honour were in like Case.

My Lord as ye may, I desire you in the way of Charity, and none other-

wise, to be good Lord unto the Prior of the said Charter-House, which is as honest a Man as ever was in that Habit, or else I am much deceived; and is one which never offended the King's Grace by disobedience of his Law: but hath laboured very fore continually for the Reformation of his Brethren: And now at last, at mine Expectation and Instigation, constantly moved, and finally persuaded his Brethren, to surrender their House, Lands and Goods into the King's Hands, and to trust only to his Mercy and Grace. I beseech you my Lord, that the said Prior may be so intreated, by your Help, that he be not sorry and repent that he hath feared and followed your fore Words, and my gentle Exhortations made unto him to surrender the said House, and think that he might have kept the same, if your Lordship and I had not led him to the said Surrender. But surely I believe, that I know the Man so well, that whatsoever he be ordered, he would be content without Grudge. He is a Man of such Charity, as I have not seen the like.

As touching the House of the Charter-House, I pray God, if it shall please the King to alter it, that it may be turned into a better use, seeing it is in the Face of the World, and much Communication will run thereof, throughout this Realm: For London is the common Country of all Lands, from whence is derived to all Parts of this Realm, all good and evil Accidents here. From London 14th Day of June, By Your Lordships at Commandment;

Thomas Bedyl.

There be departed.

Brother William Greenwood,
Dene John Davye,
Brother Robert Salter,
Brother Walter Peerson,
Dene Thomas Grene.

There be even at the Point of Death.

Brother Thomas Scriven,
Brother Thomas Reading,

There be Sick.

Dene Thomas Jonson,
Brother William Horne.

One is whole.

Dene Bird.

These had all been committed to Newgate, being Monks of the Charter-House that would not take the Oath to the King.

Styrye's Annals 277:
Proceedings

Several Monks kept in Prison till they perished.

The Charter-house suppressed and given to a Layman.

Bishop Fisher.

Proceedings against Doctor JOHN FISHER, Bishop of Rochester, for High Treason. Anno 1535. 17 HEN. VIII.

1535.
27 H. VIII.The first
Charge against him.The second
Charge.Convicted
and executed.His answer
to those who
examined
him in the
Tower.

THE Bishop had been attainted of Misprision of Treason by Act of Parliament the preceeding Year, for countenancing and abetting *Elizabeth Barton*, called the *Maid of Kent*, in her Predictions against the King's Life, if he proceeded in the Divorce. Upon which Attainder his Bishoprick was seized on, all his Goods were taken from him, and scarce any thing left to cover him; and in this Condition he was sent to a cold Prison in the *Tower*, where he remained a whole Year, destitute almost of all manner of necessaries, notwithstanding his great Age and Character: And now being required to take the Oath of Supremacy, he was upon his refusal indicted of High Treason, in conspiring against the King's Life. The Overt Acts to manifest which were his refusing the said Oath, and dissuading others to take it, being the same Charge that was preferred against the Friars of the *Charter-House*: Of which the Jury found the Bishop guilty, and he was beheaded on *Tower-Hill*, on the 22d of *June 1535*; the Death of this Prelate being hastened, it is presumed by the extraordinary Character the Pope gave him for his Resolution in opposing the King's Supremacy, and sending him a Cardinal's Hat which he never received. However, he had declared he would never accept that, or any other Preferment.

While the Bishop remained a Prisoner in the *Tower*, he was often strictly examined before Sir *Edmund Walsingham*, Lieutenant thereof, by *Thomas Bedyl* and *Richard Layton*, Clerks of the Council, and was sworn in *verbo Sacerdotij*, to answer to many Interrogatories, but chiefly concerning four Subjects.

First, About the King's Divorce, wherein he was always constant to what he had printed of the unlawfulness thereof.

Secondly, About his Supremacy which (at last) he peremptorily denied.

Thirdly, About his concealing the Imposture of *Elizabeth Barton*, the *Maid of Kent*, wherein he confessed his weakness, and over-easy belief, but utterly denied any ill Intentions to the King's Person.

Fourthly, About the Statute of Suc-

cession, wherein (as appears by his Letter to Secretary *Cromwell*) he was content to subscribe and swear to the Body, but not to the Preamble thereof.

Which Words therein, so offensive to *Fisher*, where these: 'The Bishop of *Rome* and See Apostolick, contrary to the great and inviolable Grants of Jurisdiction by God immediately to Emperors, Kings and Princes, in Succession to their Heirs, hath presumed in times past to invest who should please them to inherit in other Men's Kingdoms and Dominions; which thing we your most humble Subjects both Spiritual and Temporal do most abhor and detest.'

Mr *Fuller* has given us the following Account of the Bishop's Family, Character, and Execution.

Some account of his
Family and
Character.

'Let not the Reader grudge his Pains (says Mr *Fuller*) if we describe this Bishop from his Cradle, to (I cannot say his Coffin or winding Sheet, being made to believe he had neither, but) his Grave: the rather because I collected the same out of his Manuscript Life, compiled by *Richard Hall* of *Christ's College* in *Cambridge*, and communicated to me by a worthy Friend. Only be it premised, that the same *Hall* was a stiff *Roman Catholic*, and therefore accordingly must abatement be made in his Relations.

'This *John Fisher* born at *Beverly* in *Yorkshire*, of *Robert* his Father (a wealthy Man and a kind of Merchant) Anno 1459, was by his Parents sent to *Cambridge* to have his Education in *Michael House*, under Mr *William Melton* his Tutor.

Admitted	- - -	1484
Commenced	{ Batchelor	1488
	{ Master	1491

Made	{ Proctor	{ 1495
	{ Doctor	
	{ Master of the House thereabouts	{ 1502

{ Bishop of Rochester	- - -	{ 1504	
	{ Chosen		{ 1505
	{ Confirmed		{ 1514

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He was Chaplain and Confessor to the Lady Margaret Countess of Richmond, at whose Instance, and by whose Advice, she Founded and Endowed Christ's and St John's College in Cambridge. Employed in building of the latter (her posthume College of St John's) and effectually advancing that Work, he wanted the Accommodation of a convenient Lodging, when Dr Thomas Wilkinfon, President of Queen's College, opportunely departed this Life, and that Society requested Bishop Fisher to succeed in his Place; which he gratefully accepted, faithfully discharged, and thereby had the advantage to finish his new College in the less Time, to his greater contentment.

Here I meet with two Descriptions of Fisher as repugnant each to other, as the Religions of the two Describers, whereof the one was a rigid Papist, the other a zealous Protestant.

Hall.
In his aforesaid Manuscript.

Fisher is made by him a very wealthy Man having much Plate and Furniture of a great Value; and for his Library, no Bishop in Europe had the like unto him, in so much as he intended (as appeareth somewhere in his Letter to Erasmus) to Found a College of his own; but afterwards reverting his Resolution, in his Life time he bestowed all his rich Plate Furniture and Books on St John's in Cambridge, and borrowed the same of it again by Indenture under his Hand and Seal for his use during Life. But it happened that at his Attaindure the King's Officers seized on all he had.

For my own part I conceive no Covetousness (much less such Sacrilege) can be
NUMB. V.

Ascham.
Commendatitiarum Ep. i.

Joannes Fisherus Episcopus Rosenfis, dum falsam doctrinam nimis perversè defendit, optimas literas in hoc Collegio, suis Ornamentis, & suis divitiis denudavit. Hic vir natus fuit rex hoc Collegium; & propterea in manu ejus posita sunt clarissima Ornamenta, quæ Domina Margareta huic Collegio clargita est. — Ejus perversa doctrina, & illud vitium nos summis divitiis crucis privavit.

charged on Fisher's Account, it being notoriously known that King Henry VIII (who formerly favoured him) profered to remove him from Rochester to Lincoln or Ely (treble the other in Revenue); which Fisher refused both in Word and Print: *Habeant alij* (says he) *proventus pinguiores*; &c. being used to say, *he would not change his little old Wife, to whom he had been so long wedded for a wealthier.*

It is no wonder if a Papist and a Protestant cannot agree about Fisher's Character, when we find two stiff Papists at a vast distance about his Estate. Hall, as is aforesaid, makes him very wealthy; which is not improbable considering he had a paternal Bottom, whereon; Competency of Revenue, wherewith; long continuance of time, wherein; and commendable Frugality, whereby to build an Estate. Not to speak that he served a good Mistress, the Lady Margaret, known to have rich Coffers, and her Confessor could command the Keys thereof. But on the contrary, Sanders makes him as poor as Job; in so much that Soldiers coming to seize on his supposed Wealth, found (what was quickly sold) nothing at all belonging to him, save a great barred Chest: These from the facing of Iron, concluded the lining thereof Silver at least; and having broke it open, found nothing therein but Sackcloth, and a Whip, which put them all to Penance, and soundly lashed their covetous Expectation.

Being upon the Scaffold he spake to the People in effect as followeth:

Christian People,

I am come hither to dye for the Faith of Christ's Holy Catholick Church; and I thank God hitherto my Stomach hath served me very well therunto, so that yet I have not feared Death: Wherefore I desire you all to help and assist with your Prayers, that at the very Point and Instant of Death's Stroke, I may in that very Moment stand stedfast without fainting in any one Point of the Catholick Faith, free from any Fear. And I beseech Almighty God of his infinite Goodness to save the King and this Realm; and that it may please him to hold his holy Hand over it, and send the King a good Council.

These Words he spake with a cheerful Countenance, such a stout and constant Courage, and such a reverend Gravity, that he appeared to all Men, not only void of Fear, but also glad of Death.

After these few Words, he kneeled down on both his Knees, and said certain
L 1 Prayers,

1535.
27 H. VIII.

His dying Speech.

1535.
27 H. VIII.

Prayers; among which one was the Hymn of *Tedeum Landamus*, to the end; and the Psalm, *In te Domine speravi*. Then came the Executioner and bound an Handkerchief about his Eyes, and so the Bishop lifting up his Hands and Heart to Heaven, said a few Prayers, which were not long, but fervent and devout; which being ended, he laid his Head down over the midst of a little Block, where the Executioner being ready with a sharp and heavy Ax, cut asunder his slender Neck at one Blow, which bled so abundantly, that many (saith my Author) wondred to see so much Blood issue out of so lean and slender a Body: Though in my Judgment, that might rather have translated the Wonder from his Leanness to his Age, it being otherwise a received Tradition, *That lean Folk have the least Blood in them*.

Thus died *John Fisher*, in the seventy seventh Year of his Age, on the two and twentieth of *June*, being *St Alban's Day*, the Protomartyr of *England*, and therefore with my Author most remarkable. But surely no Day in the *Romish* Kalender is such a Skeleton, or so bare of Sanctity, but (had his Death happened thereon)

a Priest would pick a Mystery out of it. He had a lank, long Body, full six Foot high; towards the end of his Life very infirm, insomuch that he used to sit in a Chair when he taught the People in his Diocese.

△ In his Life time he made himself a Tomb on the North side of the Chappel of *St John's*, intending there to be buried; but he was disappointed, for his Corps was interred on the North side of the Churchyard of *All-ballows Barking*, in which Parish the *Tower of London* stands, and where it is said he was allowed neither Coffin, Winding-sheet, or other Covering, but his naked Body was thrown into the Grave with very little Ceremony.

Mr *Fuller* adds, our Author reporteth, also how *Queen Anne Bolein* gave order his Head should be brought unto her (before it was set upon *London Bridge* that she might please her self at the sight thereof; and like another *Herodias* insult the Head of this *John* her professed Enemy. But enough of such Falshoods, says *Fuller*.

Norris and others,

Proceedings against HENRY NORRIS, Groom of the Stole, FRANCIS WESTON, and WILLIAM BRERETON, Gentlemen of the King's Bed-Chamber, and MARK SMETON a Musician, for High Treason, in Westminster-Hall, May 12, 1536: 28 HEN. VIII.

1536.
28 H. VIII.
The Charge against them.

TWO Indictments were preferred against the Prisoners, one in the County of *Middlesex*, and the other in the County of *Kent* (founded on the 25th of *Edward III*) for High Treason, in having Criminal Conversation with the Queen Consort *Anne Bolein*.

What Evidence there was of the Facts does not appear, but it is agreed that

Mark Smeton confessed that he had lain with the Queen three times, and pleaded guilty. Our Historians do not inform us what Defence the other three made, only relate that they denied the Fact to the last; however they were all convicted. *Smeton* was afterwards hanged, but the other three being Men of Quality, had the Favour of being beheaded.

Convicted and Executed.

Proceedings

Proceedings against the Lady ANNE BOLEIN, Queen Consort, before the Duke of Norfolk, Lord High Steward, and other Peers, in the Tower of London, on the 15th of May 1536. 28 HEN. VIII.

Queen Anne
Boleyn.

1536.
28 H. VIII.
The Charge
against her.

THE Queen was indicted for High Treason in conspiring the Death and Destruction of the King; of which the Overt Acts were laid, to be her having criminal Conversation with her Brother the Marquis of Rochford, and with Norris, Weston, Brereton, and Smeton, (already convicted) to whom she had said the King never had her Heart, and had told each of them separately, that she loved him better than any Person whatever, to the Slander of the Issue begotten between the King and her.

To which Charge the Queen pleaded Not Guilty, and what the Evidence amounted to that was produced against her does not appear, unless it be some of her Expressions while she was Prisoner in the Tower, which the Governour in a Letter communicated to the King, viz. being told that Norris and Smeton had accused her, she answered, O Norris, hast thou accused me, thou art in the Tower with me, and thou and I shall die together, and Mark so shalt thou too. She apprehended they were to put her in a Dungeon, and sadly bemoaned her own and her Mother's Misery; and asked them whether she must die without Justice. The Governour told her, the poorest Subjects had Justice, much more would she have it. The same Letter says, that Norris had not accused her, and that he said to her Almoner, that he could swear for her, she was a good Woman. But she being made believe that he had accused her, and not being then so free in her Thoughts, as to consider that ordinary Artifice for drawing out Confessions, told all she knew, both of him and Mark, which though it was not enough to destroy her, yet certainly wrought much on the jealous and alienated King. She told them, That she once asked Norris, why he did not go

on with his Marriage; who answered her, that he would yet tarry sometime. To which she replied, you look for dead Men's Shoes; for if ought come to the King but good, you would look to have me. He answered, if he had any such Thought, he would his Head were cut off. Upon which she said she could undoe him if she pleased, and thereupon she fell out with him. As for Mark, who was then laid in Irons, she said he was never in her Chamber, but when the King was last at Winchester, and then he came in to play on the Virginals: She said that she never spoke to him after that, but on Saturday before May-day, when she saw him standing in the Window; and then she asked him, why he was so sad? he said it was no Matter: She answered, you may not look to have me speak so to you, as if you were a Nobleman, since you are an inferior Person. No, no Madam, said he, a Look sufficeth me. She seemed more apprehensive of Weston than of any Body. For on Whitfun-munday last he said to her, that Norris came more to her Chamber upon her Account, than for any body else that was there. She observed that he loved a Kinswoman of hers, and challenged him for it, and for not loving his Wife. But he answered her, that there were Women in the House whom he loved better than them both; she asked him who is that? yourself said he, upon which she said she desired him.

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28 H. VIII.

Evidence was also given of some Words spoken by the Lady Wingfield, a Servant of the Queen's, upon her Death-bed, tending to charge the Queen with a criminal Conversation with the other Prisoners.

Our Historians have not informed us what Defence the Queen made to the Charge,

1536.
28 H. VIII.
She is convicted.

Charge, only say she answered the Evidence discreetly, but all agree she was found guilty by her Peers; whether they were unanimous in condemning her I cannot learn.

Her Sentence The Sentence passed upon her was very singular, viz. *That she should be burnt or beheaded at the King's Pleasure, for*

the Sentence against a Woman convicted of Treason is always burning; no Court ever pretended before or since to pronounce an Alternative, that the Prisoner should be either burnt or beheaded.

[*Her Execution and dying Speech, see after the Proceedings against the Lord Viscount Rochford.*]

1536.
28 H. VIII.

Lord Rochford.

Proceedings against GEORGE Lord Viscount Rochford, for High Treason, before the Duke of Norfolk, Lord High Steward, and 28 Peers more, on the 15th of May 1536. 28 HEN. VIII.

1536.
28 H. VIII.
The Charge against him.

THE Queen was no sooner taken from the Bar, but her Brother the Lord Rochford was brought to his Trial, being charged with High Treason, in entertaining a Criminal Conversation with the Queen: To which he pleaded *Not Guilty*, and the only Evidence of the Charge we meet with in our Histories is; That he was seen to lean upon the Queen's Bed while she was in it. However he was found guilty of High Treason by his Peers, and Sentence accordingly passed on him as a Traytor; but the ignominious part of the Sentence being remitted, he was beheaded on *Tower-Hill*, on the 17th of May.

Sentence of Divorce against Queen Anne Bolein.

In the mean time the King proceeded to get his Marriage with Queen Anne declared null and void, under pretence of a *Precontract* between her and the Earl of *Northumberland*. But the Earl being examined thereupon, he took an Oath before the two Archbishops, that there was no Contract nor Promise of Marriage ever between them, and received the Sacrament upon it before the Duke of *Norfolk*, and others of the King's Privy Council, wishing it might be to his Damnation, if there was any such thing (concerning which I have seen the Original Declaration under his own Hand, says Bishop *Burnet*). Nor could they draw any Confession from the Queen, before the Sentence; for certainly if they could have done that, the Divorce had gone before the Trial, and then she must have been tried only as Marchioness of *Pembroke*. But now she lying under so terrible a Sen-

tence, it is most probable, that either some Hopes of Life were given her, or at least she was wrought on by the Assurances of mitigating that cruel part of her Judgment of being burnt, into the milder Sentence of having her Head cut off, so that she confessed a *Precontract*; and on the 17th of May was brought to *Lambeth*, and in Court, the afflicted Archbishop sitting Judge, some Persons of Quality being present, she confessed some just and lawful Impediments, by which it was evident, that her Marriage with the King was not valid. Upon which Confession, the Marriage between the King and her was judged to have been null and void. The Record of the Sentence is burnt, but these Particulars are repeated in the Act that passed in the next Parliament, touching the Succession to the Crown. It seems this was secretly done, for *Spelman* writes of it thus, *It was said there was a Divorce made between the King and her, upon her confessing a Precontract with another before her Marriage with the King*; so then it was then only talk'd of, but not generally known.

We meet with the following account of the Queen's Behaviour the Day before she died, in a Letter from the Lieutenant of the *Tower* to Secretary *Cromwell*, in which he says,

These shall be to advertise you, I have received your Letter, wherein you would have Strangers conveyed out of the *Tower*, and so they be by the means of *Richard Gressum*, and *William Cook*, and *Wysspoll*. But the Number of Strangers

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28 H. VIII.

The Queen's Behaviour before and at her Execution.

1536.
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Strangers past not thirty, and not many of those, and the Ambassador of the Emperor had a Servant there, and honestly put out. Sir, if we have not an Hour certain, as it may be known in London, I think here will be but few, and I think a reasonable Number were best; for I suppose she will declare herself to be a good Woman for all Men but for the King at the Hour of her Death. For this morning she sent for me, that I might be with her at such time as she received the Good Lord, to the Intent I should hear her speak as touching her Innocency always to be clear. And in the Writing of this, she sent for me; and at my coming, she said, Mr Kingston, I hear I shall not die afore Noon, and I am very sorry therefore, for I thought to be dead by this time, and past my Pain. I told her, it should be no Pain, it was so fittle. And then she said, I heard say, the Executioner was very good, and I have a little Neck, and put her Hands upon it, laughing heartily. I have seen many Men, and also Women executed, and that they had been in great Sorrow, and to my knowledge this Lady has much Joy and Pleasure in Death. Sir, her Almoner is continually with her, and had been since Two o'Clock after Midnight. This is the Effect of any-thing that is here at this time, and thus Fare you well,

Yours,
William Kingston.

On the 19th of May, the Queen was brought to the Scaffold erected within the Tower, where were present the Dukes of Suffolk and Richmond, the Lord Chancellor, and Secretary Cromwell, with the Lord Mayor, the Sheriffs, and Aldermen of London, and many more. She said, she was come to die, as she was judged by the Law; she would accuse none, nor say any thing of the ground upon which she was judged. She prayed heartily for the King, and called him a most merciful and gentle Prince, and that he had been always to her a good, gentle, Sovereign Lord: and if any would meddle with her Cause, she required them to judge the best; and so she took her leave of them, and of the World, and heartily desired they would pray for her. After she had been some time in her Devotions, her last Words were, To

Christ I commend my Soul, and then her Head was cut off by the Hangman of Calais, with a Sword at one stroke as she was kneeling: The King would not have her Head chopped off with an Ax upon a Block as is usual in England, but sent over for this dextrous Executioner from France, on purpose that she might be dispatched in the politest manner. But her Body was afterwards put into a common Elm Chest, and buried in the Chapel of the Tower the same Day.

Queen Anne was the Daughter of Thomas Earl of Wiltshire, Grandson to Sir Jeffrey Bolein, Mercer of London, and Lord Mayor of that City, Anno 1458. She attended the Princess Mary, Sister to King Henry VIII into France, when she married Lewis XII King of France, and remained with that Queen there sometime. At her return to England she was Maid of Honour to Queen Katherine, and soon captivated the Heart of her Sovereign King Henry, who first made her Marchioness of Pembroke, and on his Divorce from Queen Katherine, advanced her to the Throne by making her his Wife.

Her Brother the Lord Viscount Rochford had been called up to the House of Peers, though his Father the Earl of Wiltshire was living; which entitled him to a Trial by his Peers, otherwise he would have been tried by a Jury as a Commoner.

Whether the Queen, her Brother the Lord Viscount Rochford, or any of the Prisoners were guilty of the Charge, is not agreed at this Day. The Papists pretend to believe every Word of the Charge, and look upon it as a Judgment for supplanting Queen Katherine; while the Protestants as strenuously insist upon their Innocence; for Queen Anne, was looked upon as the greatest Patroness of the Reformers; and there were great Expectations she would have entirely reconciled the Queen to their Doctrines, when his Majesty unfortunately cast his Eyes upon another celebrated Beauty, Mrs Jane Seymour, one of her Majesty's Maids of Honour. And tho' the Queen saw it, and did all she could to recover the King's Affections, she found all her Endeavours unsuccessful; the King seemed only studious how to get rid of her, and enjoy the present Object of his Affections; which the Queen's Enemies observing, had the Assurance to represent her Majesty as disloyal to the King's Bed; particularly her Sister in Law, the Lord Rochford's,

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Her Family
and Chara-
cter.

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ford's Wife, being in ill terms with her Husband, insinuated to his Majesty, that the Queen and her Brother the Lord *Rochford*, were more familiar than a Brother and Sister ought to be: Others accused the Queen of a Criminal Correspondence with other Gentlemen. Which Suggestions, it is said, were countenanced by the Duke of *Norfolk*, on account of his Zeal for the old Religion of which he apprehended the Queen to be the most powerful Enemy. Whether his Majesty really believed these Reports or not, he appeared extremely troubled at the Queen's Conduct, though at the same time probably it was some Consolation to him that he had so fair a pretence to dispatch her out of the way, and make room for his new Conquest.

The first time the King discovered his Resentment against the Queen publicly, was on the first of May, at a solemn Jufts held at *Greenwich*, (where *George* Viscount *Rochford*, the Queen's Brother, was the principal Challenger, and *Henry Norris* his Opponent) the King suddenly departed from the Jufts, with a Countenance that shewed some uncommon Disorder. *Saunders* relates, that the Queen who was present, let fall her Handkerchief, and one of her supposed Favourites wiped his Face with it, which gave the King that uneasiness; but Bishop *Burnet* supposes, it proceeded from a Letter which the King received at these Jufts, to inform him that the Lady *Wingfield* one of the Queen's Servants had upon her Death-Bed charged her Majesty upon Oath with some Criminal Amours. Certain it is, the King retired on a sudden to *Whitehall*, ordering the Queen to be confined to her Chamber in the Palace of *Greenwich*, and examined by the Duke of *Norfolk*, and some other of the Privy Council, who were her Enemies, and treated her with Insolence. The next Day the Lord *Rochford*, *Norris*, *Weston*, *Brereton*, and *Smeton* were committed, and the Queen coming from *Greenwich* in her Barge, was carried to the *Tower*. Four of the Gentlemen on their Examination, absolutely denied their having had any Criminal Conversation with the Queen, as they did to the last; only *Smeton* the Musician deposed that he had enjoyed the Queen three times, which our Historians suppose he was induced to do, either by Threats or Promises; however he was never produced as a Witness against her at the Trial, which renders his Testimony liable to

great exception. But had it been true, this would not have affected the Queen's Life, though it might have done his own, there being no Law then in being, which made it High Treason, or even Capital for the Queen Consort to entertain a Gallant. Dr *Burnet* admits that the Queen was of an airy cheerful Temper, and would now and then rally the Gentlemen of the Court; and that her Conversation with them was not always suitable to her Dignity. The Truth is, she was a beautiful *English* Lady, and had been bred in the *French* Court, where Women of Quality usually converse with greater Freedom than in *England*. The King was at first taken with these Liberties; she engaged his Heart by her easy sprightly Conversation, so very different from the gravity of his *Spanish* Spouse, with which he was surfeited: But when he had made *Anne* his Wife, possibly those very Liberties which had appeared so engaging before, gave him some Suspicion of her Virtue, and his Passion for the Lady *Jane Seymour* might improve into a belief that *Anne* was not altogether innocent, nothing being more natural than to believe as we would have it.

Bishop *Burnet* observes, that the Queen's being accused of conspiring the King's Death, was only put into the Indictment to swell the Charge. But this Prelate ought to have considered that there was nothing else in the Charge (at least what we have seen of it) that did amount to High Treason. The Queen's being disloyal to the King's Bed was not Treason. And if these Words, that she loved another better than the King, were strained so far as to be interpreted an intention to slander her own Issue, even this, by the Act of Succession the Bishop mentions, was but Misprision of Treason, unless the Words had been put in Writing, which is not pretended.

The Peers no doubt found the whole Charge, and consequently the conspiring the King's Death. And it might be urged by his Council against the Queen, that if she had prostituted herself to so many Men, this was a sufficient Overt Act or Evidence of her imagining and compassing the Death or Destruction of the King; for Inferences less conclusive were made use of in this Reign to bring Men within the danger of the 25th of *Edward III.* which makes it High Treason to conspire or imagine the Death or Destruction of the King.

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Rapin also repeats a Mistake he appears to have been guilty of in the History of this and several other Reigns (*Viz.*) That a Peer ought to have been tryed by the whole House of Peers out of Parliament. It is observable, says that Gentleman, that there were but twenty nine Peers present at the Tryal, though there were then fifty three in *England*. But whoever is acquainted with the Laws of *England* knows, that at that time there was no necessity that all the Peers should be present; nay, there is no instance where they

were, unless the Parliament was sitting; and it was very seldom that there were so many in the Commission as nine and twenty, which we find in this.

But to conclude, the King within a Day or two after Queen *Anne's* Execution, married the Lady *Jane Seymour*; from whence People generally concluded, that his principal Motive for hurrying the late Queen out of the World, was to throw himself into the Arms of his new Mistress.

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28 H. VIII.

Proceedings against THOMAS Lord DARCY, JOHN Lord HUSSY, ROBERT ASK, Sir ROBERT CONSTABLE, and others for High Treason. Anno 1537. 29 HEN. VIII.

Lord Darcy.
&c.

1537.
29 H. VIII.
The Case.

THE Case was this: The King's suppressing the Monasteries occasioning great discontents among the People, they broke out into open Rebellion about *Michaelmas* 1536, in several parts of the Kingdom, particularly in the County of *Lincoln*; where one *Mackrell*, Prior of *Barlings*, took upon him to be General of the *Malecontents*, stiling himself *Captain Cbler*: These sent up a Roll of their Grievances to the King, of which the chief were his suppressing the Monasteries, and suffering his Council to be governed by Men of no Quality or Figure in the World, pointing at *Cromwell*, who was the Son of a *Blacksmith*, and the Lord Chancellor *Audley*, whom they apprehended to be the most zealous Promoters of the dissolution of the Monasteries. They also complained of his making Bishops who were heretically inclined, and suggested that they expected to see the Churches as well as the Monasteries plundered and demolished, if he did not change his Ministry.

The King published a Declaration in Answer to this Remonstrance of the *Malecontents*, and sent the Duke of *Sussex* into *Lincolnshire*, with a small Body of Troops to make Head against them, But the Duke finding himself too weak to engage the Rebels, advised the King to offer them a Pardon; on the publishing whereof, great part of the *Lincolnshire*

Men abandoned their Leader and dispersed, and the rest retired into *Yorkshire*, where the People had taken Arms also and were become very formidable; *Captain Cbler* however was taken by the King's Forces and sent Prisoner to *London*.

The *Yorkshire* Rebels consisted chiefly of the Monks and inferiour People, whom they had spirited up against the Government; but they compelled several of the Nobility and Gentry in the Northern Counties to join with them, and among the rest the Lord *Darcy* and the Archbishop of *York*. They were commanded by one *Ask*, an obscure Person but admirably qualified to foment and prosecute an Insurrection. They made a kind of Religious War of it, stiling their March the Pilgrimage of Grace. Several Priests were seen at the Head of the Army, and in their Colours were wrought the five Wounds of our Saviour, with the Word *Jesus*; and they declared their design was to restore the Church, and suppress all heretical Opinions, and wherever they came, re-established the Religious in their Monasteries.

The King sending down a general Pardon without exception also into *Yorkshire*, and promising to hold a Parliament at *York*, where their Grievances should be redressed, the Northern *Malecontents* laid down their Arms. But the King instead of holding a Parliament, or redressing Grievances,

1537.
29 H. VIII.

1537.
29 H. VIII.

Grievances, ordered his General the Duke of *Norfolk* to remain in the *North* with his Forces, and compell the People to renew their Oaths to the Government, and to swear that they would obey all the Acts of Parliament that had been lately made, relating to Religion or the State. He ordered also *Aske* their General, and the Lord *Darcy* to be sent to Court, where *Aske* was at first well received, but the Lord *Darcy* was sent to the *Tower*. And this occasioned another Insurrection in the *North*, under *Musgrave* and *Tilney*, who assembled eight thousand Men, in order to defend themselves against the violent Measures they apprehended the Court was taking; for hearing the Lord *Darcy* was imprisoned; they concluded they should be called to an Account, sooner or later, notwithstanding the King's Pardon. They attempted therefore to possess themselves of *Carlisle* and *Hull*; but were attacked by the Duke of *Norfolk*, and defeated, before they could effect either of their Designs. Whereupon the Duke hanged seventy two of the *Malecontents* upon the Walls of *Carlisle* by Martial Law with all their Leaders. And *Aske* making his escape from Court under an Apprehension he should be treated in the same manner, fell into the hands of the King's Forces.

wo
Malecontents
executed at
once.

The Lords *Darcy* and *Hussy* were tried by their Peers, the Marquis of *Exeter* being High Steward.

The Indictment found against them

recited all the Steps that were taken in the late Rebellion; and then adds, that the Prisoners had met together since, (*Viz.*) on the 17th of *January*, and consulted how to renew it, and prosecute it farther; being encouraged by the new Risings that were then in the *North*: By which they had forfeited all the Favour, to which they could have pretended, by virtue of the Indemnity that was granted in the end of *December*, and of the Pardons which they had taken out.

What Defence these Lords made to the Charge does not appear, but they were both convicted, and Sentence passed on them as Traytors: The Lord *Darcy* being beheaded afterwards on *Tower-Hill*, and the Lord *Hussy* at *Lincoln*.

Convicted
and execu-
ed.

A Commission of Oyer and Terminer also was issued for the Tryal of Sir *Robert Constable*, Sir *John Bulmer*, and his Lady, Sir *Francis Pigot*, Sir *Stephen Hamilton*, and Sir *Thomas Piercy*; and *Aske* that had been their Captain, with the Abbots of *Whalley*, *Jerveux*, *Birdlington*, *Lenton*, *Woburn*, and *Kingstead*, and *Mackrell* the Monk, that had raised the *Lincolnshire* Rebellion with sixteen more, were indicted of High Treason for the late Rebellions. These were all convicted and received Sentence of Death as Traytors, and several of them were carried into *Yorkshire* and *Lincolnshire* to be executed; but most of them suffered in *London*, and particularly the Lady *Bulmer* who was burnt in *Smithfield*.

Sir Robert
Constable and
fifteen more
convicted
and execu-
ted.

N^o 101.

Proceedings against JOHN NICHOLSON alias LAMBERT; Clerk, for Heresy. Anno 1538. 30 HEN. VIII.

1538.
30 H. VIII.
The Charge
against him.

THE Prisoner *John Lambert* was brought before Dr *Warham*, Archbishop of *Canterbury* in the Year 1532, and charged with Heresy in forty-five Articles; consisting chiefly of such Points as the Papists hold in Opposition to Protestants: As that he did not believe Transubstantion, or that Confession to a Priest or Penance were necessary: That he did not approve of praying to Saints, Pilgrimages, &c. Nor did he deny his Opinion in these Points when he was exami-

ned concerning them. Whereupon he was continued in Prison in the Archbishop's House in *Oxford* till the Year 1533, when the Archbishop dying and being succeeded by *Cranmer*, *Lambert* was set at Liberty, and returned to *London*, where he taught the *Latin* and *Greek* Tongue till the Year 1538; when hearing Dr *Taylor* preach of the Presence of Christ in the Sacrament, he went to him after divine Service, and offered him some Reasons why he could not believe the Doc-

1538.
30 H. VIII.

trine

1538.
H. VIII.

trine he had preached, which he put in Writing, digesting them into ten Arguments. *Taylor* shewed this to *Dr Barnes*, who as he was bred among the *Lutherans*, so had not only brought over their Opinions but their Temper with him. He thought that nothing would more obstruct the Progress of the Reformation, than the venting that Doctrine in *England*: Therefore *Taylor* and he carried the Paper to *Cranmer*, who was at that Time also of *Luther's* Opinion concerning the real Presence of the Sacrament; and *Lambert* being brought before Archbishop *Cranmer*, he endeavoured to make him retract his Opinion: But *Lambert* thought fit to appeal to the King; whereupon *Stephen Gardiner*, Bishop of *Winchester*, a rigid Papist, took this Opportunity of representing to his Majesty how much all good Catholics were disgusted at his Proceedings already in abolishing the Pope's Power, suppressing of Monasteries, divorcing his Queen, &c. insinuating at the same Time, that he might pacify and conciliate the People to him if he would now proceed with Severity against this Heretick *Lambert*. This would effectually clear him of all Suspicion of being a Favourer of the new Sects and Opinions.

The King approving Bishop *Gardiner's* Advice, issued a Proclamation, commanding all the Bishops, Nobility, Judges and Officers of State to attend him at *London*, and assist him in a Trial of Heresy, in which he would sit in Judgment personally. And accordingly on the ——— Day of *November 1538*, the King attended by the Nobility, Bishops, &c. sat in *Westminster-hall*, under a white Cloth of State. His Guards which surrounded the Court being clothed also in White.

The Prisoner *Lambert* being brought to the Bar, *Dr Day* was commanded to declare the Occasion of summoning this great Assembly; who thereupon said, The King would not have the World imagine because he had abolished the Authority of the Bishop of *Rome*, that therefore he intended to discountenance Religion and suffer Hereticks to disturb the Peace of the Church of *England*, of which his Majesty was the Head; nor had he with Impunity assembled them to hear any Article of the Christian Faith disputed, but to be Witnesses of his Zeal, in refusing and condemning the Errors of *Lambert* the Prisoner.

Then the King standing up, with an austere threatening Countenance demand-

ed of the Prisoner what was his Name. To which he answered, his Name was *John Nicolson*, tho' he was usually called *Lambert*. What, replied the King, have you two Names? I would not trust a Man that has two Names if he were my Brother.

Lambert said, Most noble Prince, your Bishops compelled me to change my Name: And then began to complain of the Cruelties many good Men suffered by their Means without his Majesty's Knowledge. But since the great God had inspired the King to hear the Causes of his afflicted Subjects himself, and was in all respects so well qualified to judge of these Matters, he did not doubt a happy Event of his Cause, or to that purpose.

The King angrily interrupting *Lambert*, said, He did not come thither to hear his own Praises, and bid him speak to the Point; whereupon *Lambert* appeared to be in some Confusion, and remained silent a good while: The King thereupon said, why standest thou still? Answer as touching the Sacrament of the Altar, whether dost thou say, that it is the Body of Christ, or wilt deny it; and with that Word the King lifted up his Cap.

Lambert. I answer with *St Augustine*, that it is the Body of Christ after a certain Manner.

The King. Answer me neither out of *St Augustine*, neither by the Authority of any other; but tell me plainly whether thou sayest it is the Body of Christ or no, these Words the King spake again in *Latin*.

Lambert. Then I do deny it to be the Body of Christ.

The King. Mark well, for now thou shalt be condemned even by Christ's own Words; *Hoc est Corpus meum*.

Then the King commanded Archbishop *Cranmer* and the rest of the Bishops to refute his Opinion: Of whose Arguments Bishop *Burnet* in his History of the Reformation, has given us the following Abstract.

'The Archbishop spoke only to that Part of the Prisoner's Objection, That it is impossible for a Body to be in two Places at once, observing that though Christ is always in Heaven, yet he was seen by *St Paul* in the Air. But *Lambert* affirmed, that he was then only in Heaven, and that *St Paul* heard a Voice and saw a Vision, but not the very Body of Christ.' Upon this they disputed for some Time; in which it seems the Bi-

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All the Bishops dispute with him.

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shop of *Winchester* thought *Cranmer* argued but faintly, for he interposed in the Argument.

Tonstal's Arguments run all upon God's Omnipotency, that it was not to be limited by any Appearances of Difficulties, which flowed from a Want of a right understanding of Things, and our Faculties being weak, our Notions of Impossibilities were proportioned to these. But *Stokesly* thought he had found out a Demonstration, that might put an End to the whole Controversy, for he shewed, that in Nature we see one Substance changed into another, and yet the Accidents remain; so when Water is boiled, till it evaporates into Air, one Substance is changed into another, and Moisture that was the Accident remains, it being still moist. This (as one of the Eye-witnesses relates) was received with great Applause, and much Joy appeared in the Bishops Looks upon it. Thus from an accidental Conversion, where the Substance was still the same, only altered in it's Forms and Qualities (according to the Language of that Philosophy, which was then most in Vogue) they infer a substantial Mutation, where one Substance was annihilated, and a new one produced in its Place. But these Arguments it seems disordered *Lambert* somewhat, and either the King's stern Looks, the Variety of the Disputants, ten, one after another, engaging with him, or the Greatness of the Presence, with the Length of the Action, which continued five Hours, put him in some Confusion. It is not improbable but they in the End might bring him to be quite silent. This one that was present said flowed from his being spent and wearied, and that he saw what he said was little considered. But others ascribe it to his being confounded with the Arguments that were brought against him. So the general Applause of the Hall gave the Victory on the King's Side.

Then the King said: After all the Reasons and Arguments of the learned Men, art thou not satisfied? Wilt thou live or die? What saist thou? Thou hast yet free Choice.

Lambert. I yield and submit my self wholly unto the Will of Your Majesty. Then said the King: Commit thy self unto the Hands of God, and not unto mine.

Lambert. I recommend my Soul into the Hands of God, but my Body I wholly yield and submit unto your Clemency. Then said the King: If you do commit yourself unto my Judgment, you must die, for I will not be a Patron unto Hereticks; and by and by turning himself unto *Cromwell*, he said, *Cromwell* read the Sentence of Condemnation against him, which was done accordingly, and the Prisoner condemned to the Flames. The Sentence being put in Execution in *Smithfield*, some few Days after.

This *Lambert* was a Native of *Norfolk*, and educated in the University of *Cambridge*: Where having finished his Studies, and becoming obnoxious on account of his adhering to the Protestant Doctrines, he embarked for the Low Countries, associating himself with *Tindal*, who translated the Bible into *English*, and with *Frith*, who suffered Martyrdom in *England* afterwards; and was made Chaplain to the *English* Factory at *Antwerp*, till he was apprehended by orders from Sir *Thomas More*, brought to *London*, and prosecuted in Archbishop *Warham's* Court, for Heresy, as related already. Bishop *Burnet* says, He was a learned and good Man. His Answers to the Articles objected to him by *Warham*, and a Book which in his Imprisonment he wrote for justifying his Opinion, which he directed to the King, do shew both great Learning for those times, and a very good Judgment.

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Lambert
condemned
and executed.

Some account of
him.

Proceedings

Proceedings against several Abbats for High Treason. *Abbats.*
Anno 1538. 30 HEN. VIII.

1538.
30 H. VIII.

attainted
and executed

THE Prior of *Woburn*, the Abbat of *Wbaley*, and two of his Monks, the Abbat of *Gervaux*, with a Monk of his House, the Abbat of *Sawley*, the Prior of *Burlington*, the Abbats of *Glastonbury* and *Reading*, were all attainted of High Treason, and executed on a Presumption of their having abbetted and countenanced the late Insurrections, and their Monasteries and Lands adjudged to

be forfeited to the Crown. But however justly, as Doctor *Burnet* well observes, these Abbats were attainted, their seizing on their Houses and Lands by Virtue of those Attainders, was certainly a great stretch of the Law, since the offence of an Ecclesiastical Incumbent is a Personal thing, and cannot prejudice his House or Church.

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Proceedings against HENRY COURTNEY, Marquiss of Exeter, and HENRY POLE, Lord MONTACUTE, Sir GEOFFRY POLE, and others, for High Treason. *Marquiss of Exeter, &c.*
Anno 1538. 30 HEN. VIII.

1538.
30 H. VIII.

the Charge
against him.

THE Indictment charges, That whereas Cardinal *Pole*, and others, had cast off their Allegiance to the King, and gone and submitted themselves to the Pope, the King's mortal Enemy; the Lord *Montacute*, did on the 24th of *July*, in the 28th Year of the King's Reign, a few Months before the Rebellion broke out, say that he liked well the Proceedings of his Brother the Cardinal, but did not like the Proceedings of the Realm; and said, I trust to see a Change of this World, I trust to have a fair Day upon those Knaves that rule about the King; and I trust to see a merry World one Day. Words to the same Purpose were also charged on the Marquiss; the Lord *Montacute*, further said, I would I were over the Sea with my Brother, for this World will one Day come to Stripes: It must needs so come to pass, and I fear we shall lack nothing so much as honest Men. He also said, he had dreamed that the King was dead, and though he was not yet dead, he would die suddenly; one Day his Leg will kill him, and then we shall have jolly stirring: saying also, that he had

never loved him from his Childhood; and that Cardinal *Wolsey* would have been an honest Man, if he had had an honest Master. And the King having said to the Lords, he would leave them one Day, having some Apprehensions he might shortly die, that Lord said, if he will serve us so, we shall be happily rid; a time will come; I fear we shall not tarry the time, we shall do well enough. He had also said, he was very sorry the Lord *Abergavenny* was dead, for he could have made ten thousand Men, and for his part he would go and live in the *West*, where the Marquiss of *Exeter* was strong; and had also said upon the breaking out of the Northern Rebellion, that the Lord *Darcy* played the Fool, for he went to pluck away the Council, but he should have begun with the Head first, but I bestrew him for leaving off so soon. These were the Words charged on those Lords, as clear Discoveries of their Treasonable Designs, and that they knew of the Rebellion that brake out, and only intended to have kept it off to a fitter Opportunity. They were also accused of Corre-

1538.
30 H. VIII.

spondence

1538.
30 H. VIII.Convicted
and execu-
ted.Crofts, &c.
Indicted and
executed.Their At-
tainders con-
firmed by
Parliament.The Mar-
chioness of
Exeter and
Countess of
Salisbury at-
tainted.

spondence with Cardinal *Pole*, that was the King's declared Enemy.

To which Charge these Lords pleaded *not Guilty*, but according to the Custom of those times, neither our Historians or Lawyers have furnished us either with the Evidence produced against them, or their Defence; but only relate, that they were convicted of High Treason, and Sentence passed on them as Traytors.

Sir *Geoffrey Pole* was tried before Commissioners of Oyer and Terminer, for holding Correspondence with his Brother the Cardinal, and saying, that he approved of his Proceedings, but not of the King's: Sir *Edward Nevill*, Brother to the Lord *Abergavenny*, for saying the King was a Beast, and worse than a Beast: *George Crofts* Chancellor of the Cathedral of *Chichester*, for saying the King was not, but the Pope was Supreme Head of the Church: And *John Collins*, for saying the King would hang in Hell one Day, for the plucking down of Abbeys. All these, Sir *Edward Nevill* only excepted, pleaded guilty, and so they were condemned; but Sir *Geoffrey Pole*, was the only Person of the number that was not executed, for he had discovered the matter. At the same time also Cardinal *Pole*, *Michael Throgmorton*, Gentleman, *John Hilliard* and *Thomas Goldwell*, Clerks, and *William Peyto*, a Franciscan of the Observance, were attainted in their Absence, because they had cast off their Duty to the King, and had subjected themselves to the Bishop of *Rome*, *Pole* being made Cardinal by him; and for writing Treasonable Letters, and sending them into *England*. On the 14th of *February* following, Sir *Nicholas Carew*, that was both Master of the Horse, and Knight of the Garter, was arraigned for being an Adherent to the Marquis of *Exeter*, and having spoke of his Attainder as unjust and cruel, he was also attainted and executed on the third of *March*.

At the Parliament which was held soon afterwards, these Attainders were confirmed, and the Marchioness of *Exeter*, and the Countess of *Salisbury*, were attainted by Act of Parliament, without being heard in their Defence.

The Marchioness of *Exeter*, was charged with confederating herself with Sir *Nicholas Carew* in his Treasons; to which is added, That she had committed divers other abominable Treasons. The latter is said to have confederated herself with her Son the Cardinal, with other aggrava-

ting Words. It does not appear by the Journal that any Witnesses were examined; only that day the Bills were read the third time in the House of Lords, *Cromwell* shewed them a Coat of white Silk, which the Lord Admiral had found among the Countess of *Sarum's* Cloaths, in which the Arms of *England* were wrought on the one side, and the Standard that was carried before the Rebels was on the other side. This was brought as an Evidence that she approved of the Rebellion. Three *Irish* Priests were also attainted for carrying Letters out of *Ireland*, to the Pope and Cardinal *Pole*; as also Sir *Adrian Fortescue*, for endeavouring to raise Rebellion, *Thomas Dingley* a Knight of St *John* of *Jerusalem*, and *Robert Granceter*, Merchant, for going to several Foreign Princes, and persuading them to make War upon the King, and assist the Lords *Darcy* and *Hussay* in the Rebellion they had raised. Two Gentlemen a Dominican Friar, and a Yeoman, were by the same Act attainted, for saying, that that venomous Serpent the Bishop of *Rome* was Supreme Head of the Church of *England*. Another Gentleman, two Priests, and a Yeoman were attainted for Treason in general, no particular Crime being specified. Thus sixteen Persons were in this manner attainted; and if there was any Examination of Witnesses for convicting them, it was either in the Star Chamber, or before the Privy Council, for there is no mention of any Evidence that was brought against them in the Journals: There was also much haste made in the passing this Bill, it being brought in the 10th of *May*, was read that Day for the first and second time, and on the 11th of *May* for the third time. The Commons kept it five Days before they sent it back, and added some more to those that were in the Bill at first, but how many were named in the Bill originally, and how many were afterwards added, cannot be known. *Fortescue*, and *Dingley* suffered the 10th of *July*. As for the Countess of *Sarum*, the Lord *Herbert* saw in a Record, that Bulls from the Pope were found in her House, that she kept Correspondence with her Son, and that she forbid her Tenants to have the New Testament in *English*, or any other of the Books that had been published by the King's Authority. She was then about seventy Years of Age, but shewed by the Answers she made, that she had a vigorous and masculine Mind. She

1538.
30 H. VIII.Three
Priests, &c.
attainted.Sixteen at-
tainted with-
out Trial.

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30 H. VIII.

She was kept two Years Prisoner in the Tower after the Act had passed; the King by that Reprieve designing to oblige her Son to a better Behaviour: But upon a fresh Provocation by a New Rebellion in the North, she was beheaded, and in her the Name and Line of *Plantagenet* determined. The Marchioness of *Exeter* died a natural Death.

Bishop Burnet's remarks on these Parliamentary Attainders.

Bishop *Burnet* in his Remarks on these Parliamentary Attainders, without hearing the Parties in their Defence, says; *It is a Blemish never to be washed off, and which cannot be enough condemned, being a Breach of the most sacred and unalterable*

Rules of Justice; and then recites the following Censure of such Attainders in the Lord Chief Justice *Coke's* fourth Institute, (*Viz.*) 'Although I question not the Power of the Parliament, for without question the Attainder stands of Force in Law, yet this I say of the manner of Proceeding, *Auferat Oblivio, si potest, si non utrumque silentium tegat.* For the more high and absolute the Jurisdiction of the Court is, the more just and honourable it ought to be in the Proceedings, and to give Example of Justice to the inferior Courts.'

1358.
30 H. VIII.

Proceedings against ROBERT BARNES, Doctor of Divinity, THOMAS GARRET, B. D. and WILLIAM JEROME, B. D. for Heresy. Anno 1540, and 1541.
32 HEN. VIII.

Barnes, &c.

1540,
1541.
32 H. VIII.
The first charge against Barnes

DOCTOR *Barnes* was at first charged with advancing Heretical Notions, in a Sermon preached at *St Edward's Church* in *Cambridge*. In which also he reflected on Cardinal *Wolsey's* splendid Equipage and pompous Processions: Whereupon he was apprehended and brought before the Cardinal, who said to him,

What Master Doctor had you not a sufficient Scope in the Scripture to teach the People, but that my golden Shoes, my Pollaxes, my Pillars, my golden Cushions, my Crosses did so sore offend you, that you must make us *ridiculum Caput* amongst the People? We were jollily that day laughed to Scorn. Verily it was a Sermon more fit to be preached on a Stage than in a Pulpit; for, at the last you said, I wear a pair of red Gloves, I should say Bloody Gloves (quoth you,) that I should not be cold in the midst of my Ceremonies. The Doctor answered, I spake nothing but the Truth out of the Scriptures, according to my Conscience, and according to the Old Doctors. And then did he deliver to the Cardinal six Sheets of Paper written to confirm and corroborate his sayings.

The Cardinal received them smiling on

him, and saying, we perceive then that you intend to stand to your Articles, and to shew your Learning.

Yea, said *Barnes* that I do intend, by God's Grace, with your Lordship's Favour.

The Cardinal answered: Such as you are do bear us little Favour and the Catholic Church. I will ask you a Question, Whether do you think it more necessary that I should have all this Royalty, because I represent the King's Majesty's Person in all the High Courts of this Realm, to the terror and keeping down of all Rebellious Treasons, Traytors; all the wicked and corrupt Members of this Commonwealth, or to be as simple as you would have us, to sell all these aforesaid things, and to give it to the Poor, which shortly will piss it against the Walls, and to pull away this Majesty of a Princely Dignity, which is a Terror to all the Wicked, and to follow your Counsel in this behalf?

Barnes answered: I think it necessary to be sold and given to the Poor. For this is not comely for your Calling; nor is the King's Majesty maintained by your Pomp and Pollaxes, but by God who saith, *Per me Reges regnant, — Kings and their Majestys reign and stand by me.*

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1540,
1541.
32 H. VIII.

1540.
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Then answered the Cardinal: Lo Master Doctors, here is the learned wise Man you told me of; then they kneeled down and said, we desire your Grace to be good unto him, for he will be reformable.

Then said he, Stand you up, for your Sakes and the University, we will be good unto him. How say you Master Doctor do you not know that I am *Legatus a Latere*, and that I am able to dispence in all matters concerning Religion within this Realm, as much as the Pope may? He said I know it to be so.

Will you then be ruled by us, and we will do all things for your Honesty, and for the Honesty of the University?

Barnes answered, I thank your Grace for your good Will: I will stick to the Holy Scripture, and to God's Book, according to the simple Talent that God hath lent me.

Well said he, thou shalt have thy Learning tryed to the uttermost, and thou shalt have the Law.

Then he required him that he might have Justice with Equity, and forthwith he should have gone to the *Tower*, but that *Gardiner* and *Fox* became his Sureties that Night.

Being brought before the Bishops at the *Chapter House* at *Westminster* afterwards, he delivered an account of his Faith in Writing, and subscribed it, and then was committed to the *Fleet*. The next Day appearing before the Bishops again they endeavoured to confute his Opinions, threatening him if he persisted in them, that he should be burnt; but advised him at the same time to abjure, which with much Reluctance it is said the Doctor consented to, and signed his Abjuration.

Then he was ordered with some *Germans* accused also of Heresy to do Penance at *St Paul's*, of which occurrence Mr *Fox* gives us the following Relation.

Doctor *Barnes* and the *Germans* or the *Stilliard Men*, who had also abjured their Heresies, were brought on the appointed Day to *St Paul's*, with Faggots on their Shoulders. The Cardinal sat enthroned on a Scaffold erected on the top of the Steps, at the entrance of the Cathedral, surrounded by thirty six Bishops, mitred Abbots and Priors, being clothed in Purple and attended by his Chaplains, and Doctors dressed in Gowns of Damask and Sattin, in the very manner that *Barnes* had described the Cardinal, when he inveighed against him in his Pulpit at *Cambridge*.

Doctor
Barnes ab-
jures.

And does Pe-
nance with
some Ger-
man Here-
ticks.

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The Place being crowded with Spectators, the Bishop of *Rocheſter* went up into a Pulpit erected for that Purpose, and preached a Sermon against the Doctrines advanced by *Luther*, and the said *Barnes's* great Basket of heretical Books (as they were then called) being set before the Scaffold, and a Fire prepared to burn them in.

During the Sermon Doctor *Barnes* and the *Stilliard Men* were commanded to kneel and ask Forgiveness, first of God, and then of the Catholick Church and the Cardinal. And after the Sermon Doctor *Barnes* as he was commanded, declared that he was more gently dealt with than his horrid detestable Heresies deserved; and kneeling down again desired the People to forgive him, and pray for him: After which the Cardinal rose up and went away under a Canopy of State, attended by the Bishops and mitred Abbots to the outward Gate of *St Paul's*, where he mounted his Mule.

Then the Bishops, &c. returned to the Scaffold, and commanded the Knight Marshal and the Warden of the *Fleet*, and their Men to lead the Penitents round the Fire; which being done they kneeled down before the Bishops and desired Absolution, which was pronounced by the Bishop of *Rocheſter*, and they were received into the Church again.

The Prisoners however were remanded to the *Fleet*, where *Barnes* remained half a Year, and then was sent to the Convent of the *Augustine Friars* in the City of *London*. While he resided here the Friars accused him of relapsing into his former Errors, and he was sent down to the Convent of *Augustine Friars* at *Northampton*, with a design to burn him there, but he had the good Fortune to make his escape into the Low Countries, from whence he went to *Luther* and was in great esteem among the Protestant Princes of *Germany*: He afterwards made his Peace, and returned to the Court of *England*, and was employed in negotiating the Match between King *Henry VIII* and the Princess *Anne of Cleve*, which proving unfortunate, was fatal to him, as well as his Patron *Cromwell*.

Barnes re-
lapses and
flies to *Flan-
ders*.

Bishop *Gardiner* in *Lent* 1540-1, preached a Sermon at *St Paul's Croſs*, asserting the Merit of good Works; and Doctor *Barnes* with the said *Thomas Garret* and *William Jerome*, two other Protestant Divines, thought fit in the same Church two or three Sundays afterwards, to preach

up

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32 H. VIII.

Returns and
preaches a-
gainst Bishop
Gardiner.

up the opposite Doctrines in the Presence of Bishop Gardiner; when Doctor Barnes (according to Fox) was guilty of very indecent Behaviour, calling upon the Bishop by Name to answer him, and alluding to a Cockfight, said Gardiner was a fighting Cock, and he was another, but the Garden Cock he thought wanted good Spurs: He found fault also with the Grammar of the Bishop's Discourse, and said, if he had answered him in the Schools in the manner he preached there, he would have given him half a Dozen Stripes; adding that this Gardiner set evil Herbs in the Garden of God's Scripture, with other disrespectful Expressions: Of which Bishop Gardiner immediately complained to the King; and Barnes was obliged to beg both Gardiner's and the King's Pardon.

His Majesty afterwards ordered the Bishop and Barnes to dispute upon this Question; whether a Man could do any thing good or acceptable before the Grace of Justification, or not? Which Question rose upon a certain contention which had been between them before; for Barnes had affirmed, that albeit God required of us to forgive our Neighbour, to obtain forgiveness of him; yet he said that God must forgive us first, before we forgive our Neighbour; for else to forgive our Neighbour were Sin, by the Text that saith, *All that is not of Faith is Sin*. And the King assisted by some of the Bishops was pleased to dispute personally with Barnes, Jerome, and Garret upon the Article of Justification, in which they pretended at least to be confuted, and subscribed a Recantation of their opinions. They were also ordered to submit themselves to the Bishop, and receive his Instructions as to the Point in Question. Whereupon Gardiner drew up the ten following Articles, which he required Doctor Barnes and his Friends Jerome and Garret to give their assent to (*Viz.*)

I. That the effect of Christ's Passion hath a Condition; the fulfilling of the Condition diminisheth nothing of the effect of Christ's Passion.

II. They that will enjoy the effect of Christ's Passion, must fulfil the Condition.

III. The fulfilling of the Condition requireth first, knowledge of the Condition, which knowledge we have by Faith.

IV. Faith cometh of God, and this Faith is a good Gift, it is good and profitable to me; it is profitable to me to

do well, and to exercise this Faith; *Ergo*, by the Gift of God I may do well before I am justified.

V. Therefore I may do well by the Gift of God, before I am justified, towards the Attainment of Justification.

VI. There is ever as much Charity towards God as Faith: As Faith increaseth, so doth Charity encrease.

VII. To the Attainment of Justification is required Faith and Charity.

VIII. Every thing is to be called freely done, whereof the beginning is free and at Liberty, without any Cause of Provocation.

IX. Faith must be to me the Assurance of the Promises of God made in Christ (if I fulfil the Condition) and love must accomplish the Condition: Whereupon followeth the Attainment of the Promise according to God's Truth.

X. A Man being in deadly Sin, may have Grace to do the Works of Penance, whereby he may attain to his Justification.

Dr Barnes and his Friends shewing no Disposition to confess the Truth of those Articles, nor being able to give such Reasons for rejecting them as would satisfy the King and the Bishop, the King was extremely exasperated, and ordered the Doctor and his two Seconds Jerome and Garret to preach Recantation Sermons in the Presence of the Bishop: Which they accordingly did; but at the Close of their several Discourses, contradicted all they had said before. Whereupon they were committed to the Tower, and remained there from Easter to the 30th of July, being two Days after their great Patron Cromwell was beheaded. And having been attainted by Act of Parliament in the same manner Cromwell himself had been, without Trial or any Opportunity of making their Defence, they were drawn to Smithfield upon Sledges with three other Prisoners, *viz.* Abel, Fetherstone, and Powel, who had been attainted of High Treason by another Act of the same Parliament, for maintaining the Pope's Supremacy, and denying the King's. And they who had the ordering of the Execution were pleased to couple a Protestant and a Papist together upon each of the three Sledges. When they came to Smithfield Dr Barnes and his two Friends were bound to a Stake, in order to be burnt for Heresy, while the other three were hanged and quartered as Traytors. As to the Speeches of the three Protestants at the Stake, they may be seen at large

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32 H. VIII.

Relapse a-
gain.

Barnes, Je-
rome and
Garret, at-
tainted by
Act of Par-
liament.

Drawn to
Execution,
in

The King
disputes with
Barnes, &c.

They re-
cant.

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1540.
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Their
Speeches.

in Fax; but Bishop Burnet has given us the following Abstract of them.

'Dr Barnes said: Since he was to be burnt as an Heretick, he would declare what Opinions he held. So he enlarged on all the Articles of the Creed, to shew he believed them all. He expressed a particular Abhorrence of an Opinion which some Anabaptists held, that the blessed Virgin was as a Saffron Bag; (by which indecent Simile, they meant that our Saviour took no Substance of her.) He explained his Opinion of good Works, that they must of Necessity be done, since without them none should ever enter into the Kingdom of God. They were commanded of God to shew forth our Profession by them; but he believed as they were not pure nor perfect, so they did not avail to our Justification, nor merit any thing at the Hands of God; for that was to be ascribed to the Merits of the Death and Passion of Christ. He professed great Reverence to the blessed Virgin and Saints; but said, he saw no Warrant in Scripture for praying to them: Nor was it certain, whether they prayed for us or not. But if the Saints did pray for those on Earth, he trusted within half an Hour to be praying for them. Then he asked the Sheriff if he had any Articles against them, for which they were condemned: Who answered he had none. He next asked the People if they knew wherefore he died, or if they had been led into any Errors by his Preaching, but none made answer. Then he said, he heard he was condemned to die by an Act of Parliament, and it seemed it was for Heresy, since they were to be burnt. He prayed God to forgive those who had been the occasion of it. And in particular, for the Bishop of Winchester, if he had sought or procured his Death, he prayed God heartily to forgive him, as Christ forgave his Murderers. He prayed earnestly for the King, and the Prince, and exhorted the People to pray for them. He said, some had reported that he had been a Preacher of Sedition and Disobedience; but he declared to the People, that they were bound by the Law of God to obey their King's Laws with all Humility, not only for Fear but for Conscience: Adding, that if the King commanded any thing against God's Laws, though

'it were in their Power to resist him; yet they might not do it. Then he desired the Sheriff to carry five Requests from him to the King.

'First, That since he had taken the Abbey-lands into his Hands, for which he did not blame him (as the Sheriff fancied he was about to do, and thereupon stopped him) but was glad that Superstition was taken away; and that the King was then a compleat King, obeyed by all his Subjects; which had been done through the Preaching of them, and such Wretches as they were: Yet he wished the King would bestow these Goods, or some of them, to the Comfort of his poor Subjects, who had great need of them.

'Secondly, That Marriage might be had in greater Esteem, and that Men might not upon light pretences cast off their Wives, and that those who were unmarried, might not be suffered to live in Whoredom.

'Thirdly, That abominable Swearers might be punished.

'Fourthly, That since the King had began to set forth Christian Religion, he would go forward in it, and make amends: For though he had done a great deal, yet many Things remained to be done. And he wished that the King might not be deceived with false Teachers.

'The fifth Desire he said he had forgot.

'Then he begged that they would all forgive him, if at any time he had said or done Evil unadvisedly; and so turned about and prepared himself for his Death.

'Jerome spake next, and declared his Faith upon every Article of the Creed, and said that he believed all that was in the Holy Scriptures. He also prayed for the King and the Prince, and concluded with a very patheticall Exhortation to mutual Love and Charity; that they would propose to themselves the Pattern of Christ's wonderful Love through whom only he hoped to be saved; and desired all their Prayers for himself and his Brethren. Then Gerard declared his Faith and said, that if through Ignorance or Negligence, he had taught any Error, he was sorry for it and asked God Pardon and them, whom he had thereby offended. But he protested according to his Learning and Knowledge he had always set forth the Honour of God, and the Obedience of the King's Laws, Then they all prayed for

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32 H. VIII.

The
again

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for the Pardon of their Sins, and Con-
stancy and Patience in their Sufferings:
And so they embraced and kissed one-

another; and then the Executioners
tied them to the Stake, and setting Fire
to the Wood, they were burnt to Ashes.

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32 H. VIII.
They are
burnt.

Proceedings against THOMAS CROMWELL, *Earl of* Cromwell,
Essex, for High Treason and Heresy, Anno 1540.
32 HEN. VIII.

1540.
32 H. VIII.

THE Earl was arrested at the Council
Table on the 13th of June, 1540,
by the Duke of Norfolk, and afterwards
sent to the Tower, being charged with
High Treason and Heresy. The particular
Crimes laid to his charge appear in the
Act of Attainder, which passed the latter
end of the same Month, being of the
following Tenor.

The Charge
against him.

The Act recites, that the King having
raised the said Thomas Cromwell from a
base Degree to great Dignities and high
Trusts, yet he had now by a great Num-
ber of Witnesses, Persons of Honour,
found him to be the most corrupt Traitor,
and Deceiver of the King and the Crown,
that had ever been known in his whole
Reign. He had taken upon him to set at
liberty divers Persons put in Prison for Mis-
prision of Treason, and others that were sus-
pected of it. He had also received several
Bribes, and for them granted Licenses
to carry Money, Corn, Horses, and o-
ther things out of the Kingdom, con-
trary to the King's Proclamations. He
had also given out many Commissions
without the King's Knowledge, and be-
ing but of a base Birth had said, that he
was sure of the King. He had granted
many Passports, both to the King's Sub-
jects and Foreigners for passing the Seas
without Search. He being also an He-
retick, had dispersed many erroneous
Books among the King's Subjects; parti-
cularly some that were contrary to the
Belief of the Sacrament; and when some
had informed him of this, and had shew-
ed him these Heresies in Books printed
in England, he said, they were good, and
that he found no Fault in them, and
said, it was as lawful for every Christian
Man to be the Minister of that Sacrament
as a Priest. And whereas the King had con-
stituted him Vice-gerent for the Spiritual

Affairs of the Church, he had under the
Seal of that Office licenced many that were
suspected of Heresy to preach over the
Kingdom: And he hath both by Word
and in Writing suggested to several Sheriffs,
that it was the King's Pleasure they should
discharge many Prisoners, of whom some
were indicted, others apprehended for
Heresy. And when many particular
Complaints were brought to him of de-
testable Heresies, with the Names of the
Offenders, he not only defended the Here-
ticks, but severely check'd the Informers,
and vexed some of them by Imprison-
ment and other ways. The Particulars
of all which were too tedious to be re-
cited: And he having entertained many of
the King's Subjects about himself, whom
he had infested with Heresy, and imagin-
ing he was by force able to defend his
Treasons and Heresies, on the last
of March, in the 30th Year of the
King's Reign, in the Parish of St Peter's
the Poor in London, when some of them
complained to him of the New Preachers,
such as Barnes and others, he said, their
Preaching was good: And said also among
other things, that if the King would
turn from it, yet he would not turn:
And if the King did turn, and all his
People with him, he would fight in the
Field in his own Person, with his Sword
in his Hand against him, and all others.
And then he pulled out his Dagger, and
held it up, and said, or else this Dagger
thrust me to the Heart, if I would not
die in that Quarrel against them all; and
I trust if I live one Year or two, it shall
not be in the King's Power to resist or
let it if he would: And swearing a great
Oath, said, I would do so indeed. He
had also by Oppression and Bribery made
a great Estate to himself, and extorted
much Money from the King's Subjects,

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32 H. VIII.Cromwell,
&c. attain-
ted.

and being greatly enriched had treated the Nobility with much Contempt. And on the last of *January*, in the 31st Year of the King's Reign, in the Parish of *St Martin in the Fields*, when some had put him in Mind to what the King had raised him, he said, If the Lords would handle him so, he would give them such a Breakfast as was never made in *England*, and that the proudest of them should know it. For all which Treasons and Heresies, he was attainted to suffer the pains of Death for Heresy and Treason, as should please the King: And to forfeit all his Estate and Goods to the King's use, that he had on the last of *March*, in the 31st Year of the King's Reign, or since that time. There was added to this Bill a Proviso, That this should not be hurtful to the Bishop of *Bath and Wells*, and to the Dean and Chapter of *Wells*, with whom it seems he had made some exchanges of Lands.

This Bill was brought into the House of Lords on the 17th of *June*, and read the first time, and on the 19th a second and third time, and sent down to the Commons: Where it remained ten Days under debate; and then passed that House, and was sent up to the Lords, with another Bill of th like tenour framed by the Commons, with some little Alteration. But the Lords 'tis presumed adhered to their own Bill, which received the Royal Assent on the 29th of *May*.

His Letter
to the King
thereupon.

The Day after the Act of Attainder passed, he wrote a Letter to the King, which he concluded in these Words. 'I, a most woful Prisoner, ready to take the Death, when it shall please God and your Majesty: and yet the frail Flesh inciteth me continually to call to your Grace for Mercy, and Grace for mine Offences.' And thus Christ save, preserve and keep you. Written at the *Tower* this *Wednesday* the last of *June*, with the heavy Heart and trembling Hand of your Highness's most heavy, and most miserable Prisoner, and poor Slave, *Thomas Cromwell*. And a little below that, 'Most Gracious Prince, I cry for Mercy, Mercy, Mercy.'

He is exe-
cuted.

But the King would have no Mercy on him, he was beheaded on *Tower-Hill*, the 28th of *July*; when he declared he died in the Catholick Faith, not doubted any Article of it, or any Sacrament of the Church, though he confessed he had been seduced.

As to his Family, Character, and Conduct while he was Prime Minister, and the occasion of his Disgrace, we meet with an account of them in *Dudley*: Who observes, That *Cromwell* was a Man of excellent Parts, but of mean Birth, being the Son of a *Blacksmith* at *Putney*: That he travelled into several Countries to learn the Modern Languages, and Military Discipline, and was a Soldier under the Duke of *Bourbon* at the storming of *Rome*; Returning from whence he was received into the Service of Cardinal *Wolsey*, as his Solicitor, unto whom he so approved himself, by his Fidelity and Diligence, as that the King after the Fall of that Cardinal, deemed him a proper Agent for himself, in more weighty Affairs; voluntarily entertained him for his Servant, and received such content from his dextrous management of what he had in trust, that in a short time he raised him to sundry great and eminent Titles of Dignity.

Certain it is, that in this his Service with the Cardinal, he had the chief hand, both in the Endowment and Foundation of those two famous Colleges, in *Oxford* and *Ipswich*, began by that Magnificent Prelate: and in 23 *Henry VIII* (which was soon after the Cardinal's Fall) was made a Privy Counsellor, and Master of the Jewel-House, having the Fee of fifty Pounds *per Annum* granted to him, for his good Service in that Office. The next Year following he was also made Clerk of the Hanaper, (an Office in Chancery of good profit and repute): But before the end of that Year, Chancellor of the Exchequer, which was much greater. And in 26 *Henry VIII* Principal Secretary of State; as also Master of the Rolls.

Shortly after this, that long Parliament began 3 *November*, 21 *Henry VIII*, and held by Prorogation till the 27th of that King's Reign, originally designed to swallow up those vast possessions, which through the bounty of divers pious Kings, and many other devout People of this Nation, had been bestowed on the Monasteries; wherein this *Cromwell* was the principal Contriver. It was thought fit in order to that grand Work, to send Visitors into all parts, for making Inquisition into the demeanor of the Votaries then professed in any of those Religious Houses, to the end that by representing them more loose in their Lives, than the strictness of their Rule required, the less regret might be had,

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had, not only to their Ejection, but to the utter suppression of their Orders. Whereupon in *October, Anno 1535, (27 Henry VIII)* being sent with Doctor *Lee*, and others, upon that notable Errand, they put forth all, who were willing to depart, and all who were under the Age of twenty four Years; shutting up those who remained, that they should not go out of their Places: And to them which departed, assigned forty Shillings in Money, with a Priests Gown for their Habit: but to the Nuns, no other Apparel, than secular Women did use. Which being done, they took the Relicks, and chiefest of the Jewels, in every House to the King's use.

This grand Action being over (whereupon soon ensued the dissolution of all those which had been by other Inquisitors found under the value of two hundred Pounds *per Annum*), he was shortly after, *viz. 2 Julij. 28 Henry VIII*, made Lord Keeper of the King's Privy Seal; and upon the ninth of the same Month, advanced to the Dignity of a Baron of this Realm, by the Name of Lord *Cromwell of Okeham*, in *Com. Rutl.* and within six Days after (*viz. 15 Julij.*) which was the last Day of the Parliament then held, took his Place amongst the Lords in that House.

Being therefore arrived to this high Pitch of Honour and Trust, that which I shall next observe is, that the Pope's Supremacy being here, by Authority of Parliament, abolished, and directly declared to be in the King; divers Busineses thereupon happening, which could not be dispatched without his Highness's Consent, himself not being able to undergo the Burthen thereof, conferred that Authority on this Lord *Cromwell*, making him Vicar-General over all the Spiritualities under himself: Not that he thought a Layman more fit for it than one of the Clergy, but because under Colour thereof, he had resolved to put in execution some designs, wherein the Clergy in probability would have moved but slowly. Whereupon he became President in the Synod of that Year, (*viz. 28 Henry VIII*) and sat above the Bishops, as Head over them. By the Authority of which Synod a Book was set forth, wherein (many Points of Doctrine being proposed, to be expounded by the Curates to their Parishioners) mention was only made of three Sacraments, *viz. Baptism, the Eucharist and Penance*, as also some Holy Days abrogated,

and divers other things, pertaining to Religion, and Ecclesiastical Discipline somewhat changed. And in *September* the same Year were sent out, under the King's Spiritual Seal, certain Injunctions to the Prelates and Clergy of the Realm, charging Curates to preach, and to teach their Parishioners the *Pater-Noster, Ave, Creed, Commandments, and Articles of Faith*, with other Articles in the *English* Tongue.

In 29 *Hen. VIII* he was constituted Chief Justice Itinerant of all the Forests beyond *Trent*: And in *September Anno 1538, (30 Hen. VIII)* he sent forth Injunctions to all Bishops and Curates, throughout the Realm, charging them to place in every Parish Church the Bible of the largest Volume, printed in *English*, for all Men to read in; as also a Register, wherein all Weddings, Christnings, and Burials should be entred.

About this time it was, that he obtained a Grant of the Castle and Lordship of *Okeham*, in *Com. Rutl.* and was also made Constable of *Carebrook* Castle, in the Isle of *Wight*.

It is observed, that in this great Work, for dissolution of the Religious Houses, though divers of the Visitors petitioned that some might be spared, as well for the virtue of the Persons in them, as for the benefit of the Country (the Poor receiving thence much Relief, and the richer sort good Education for their Children;) And though that worthy Man *Latimer* (then Bishop of *Worcester*) wish'd that two or three might be left in every Shire for Pious uses, yet did this *Cromwell* (by the King's Permission) invade all. And what betwixt Threats, Gifts, Persuasions, Promises, and whatever might make a Man obnoxious, at length he obtained from the Abbats, Priors, Abbeses, and their Convents, of all those the greater Monasteries, which the Act of Parliament, 27 *Hen. VIII* had not suppressed, formal Surrenders, under their publick Seals.

It is likewise not unworthy of Note, that he was a principal Instrument in keeping down the Clergy, whom in regard of their Oaths to the Pope he usually termed the King's half Subjects; and that as to the expulsion of the Monks, he said, it was no more than a restoring them to their first Institution, being lay and labouring Persons: Nor did it move him that so much strictness and austerity was enjoined them in their respective Orders, since he said, they might keep it in any Condition.

In

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In recompence therefore of this high Service, he soon obtained a Grant from the King in Fee of the dissolved Monastery of *St Osyth* in *Essex*, with all the Houses, Buildings, Church and other Appurtenances thereunto belonging: As also of the Mannors and Lordship of *Emer*, *St Osyth*, *Barnton*, *Coketwyke*, *Wigbargh*, *Earls Hall*, *Westwyke*, *Howyke*, *Lewyke*, *Wyershall*, alias *Withston Hall*, *Canon Hall*, alias *Can. Hall*, *Abbats Hall*, *Cost Hall*, alias *Costed Hall*, *Mile-end Hall*, *Broke Hall*, and *Bircbe Hall*; with *Horse*, and all and singular the Members parcel of the possession of the said Monastery, as *St Osyth*. Likewise of the Mannor or Lordship of *Chakwedon*, in *Com. Essex*, parcel of the Possessions of the new Hospital of our Blessed Lady without *Bishopsgate*, in *London*; as also of the Mannors and Lordships of *Tollesbury*, *Highb Hall*, *Abbesse Hall*, and *Hockley* in the said County of *Essex*; parcel of the possessions of the Monastery of *Berkyng*: And of all that Mannor of *Gorewell's* in *Tollesbury* afore said, parcel of the Possessions of the Monastery of *Bylegk*, in that County. Likewise of the Mannors of *Wilegbe*, *Brightingsey*, alias *Brykelssey*, *Pichejaye*, *Mondone* and *Grynstede*, in the same County, parcel of the possessions of the Monastery of *St John of Colchester*; also the Mannors of *Dedbam*, and *Langbam* in the said County; with the Mannor and Lordship of *Stratford*, juxta *Higbam*, in *Com. Suff.* with three Mannors the King had by the Grant of *Charles Duke of Suffolk*.

Moreover he then obtained from the King another Grant of the whole Scite and Circuit of the Friars Minors, commonly called the *Grey-Friars* in *Yarmouth*, within the County of *Norfolk*, with all the Houses and Buildings thereunto belonging; as also a Multitude of other Lands and Advowsons of Churches, which did belong to some one or other of the then suppressed Religious Houses; the Particulars whereof for brevity I omit to mention. Which Grants bare Date the 10th of *April*, 31 *Hen. VIII.* And upon the seventeenth of the same Month, he was advanced to the dignity of Earl of *Essex*, as also soon after made Knight of the Garter, and Lord High Chamberlain of *England*.

But as his Rise was somewhat hasty, so was his Fall very suddain. For having

been the cheif Adviser of King *Henry's* Marriage with the Lady *Anne*, Daughter to the Duke of *Cleve*, with whom after the King had lodged the first Night, he fell in dislike, concluding that he found her no Maid; neither her Beauty nor Conversation, being otherwise pleasing to him; though he outwardly shewed fair respect to her, he did not only resolve of a Divorce, but to ruin this *Cromwell*, who had been the cheif Agent in order to those his unhappy Nuptials. Whereupon the Odium contracted towards him from all the Nobility, by reason of his so great and high Advancement, from so low Birth, did not a little contribute; besides the hatred of all the *Romish* Party, in regard he had so earnestly operated in the dissolution of the Monasteries, especially of *Stephen Gardiner*, then Bishop of *Winchester*; nay of the Reformers themselves, who found that he could not protect them from burning. And lastly from the generality of the People, for that besides a Subsidy of four Shillings in the Pound which the Clergy gave, he had in that very Parliament been instrumental in getting (not without much Reluctance) one tenth and four fifteenth's from the Laity.

Of all which the King taking Advantage (having besides divers Articles brought against him) gave way to his Accusations, which could not but be very Material; it being impossible, that any Man who had acted so much in great and publick Affairs, should not in divers kinds mistake, forget and err, so far as to incur the note of a Criminal, upon severe Inquisition made against him. And therefore he caused him to be arrested at the Council Table, by the Duke of *Norfolk*, when he least suspected it, and committed to the Tower, 10 Junij. 32 *Hen. VIII.*

His eldest Son *Gregory Cromwell* was created a Baron by the Title of Lord *Cromwell* on the 10th of *December*, 32 *Hen. VIII.*, about five Months after his Father's Death. And *Dugdale* observes, that *Oliver Cromwell* the Protector descended from a Sister of this *Thomas Cromwell* Earl of *Essex*, Sir *Richard Williams* a *Welshman*, who married her, changing his Name for that of *Cromwell*, in regard to the Earl, by whom he was preferred at Court.

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29 H. VIII.

Proceedings against **WALTER, Lord HUNGERFORD, for Sorcery, Sodomy, &c.** Anno 1540. 32 HEN. VIII.

Lord Hungerford.

1540.
32 H. VIII.
Attainted by
Parliament.

THE Charge against the Lord *Hungerford*, was, that he retained one *William Bird* for his Chaplain, who had called the King Heretick; that he had procured certain Persons to practice Conjurati^on, in order to know how

long the King would live, and had committed Buggery. He was not allowed however to make any Defence, but attainted by Act of Parliament, and beheaded on *Tower Hill* the same Day the Earl of *Essex* suffered.

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32 H. VIII.

Proceedings against **Queen KATHERINE HOWARD, and the Lady ROCHFORD, for High Treason.** Anno 1541. 33 HEN. VIII.

Queen Katherine Howard, &c.

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33 H. VIII.
The Charge

THE Crime *Queen Katherine Howard* was charged with was a Criminal Conversation with *Francis Deirham*, Gent. as well before as after her Marriage; and with *Thomas Culpeper*, Esq; Gentleman of the King's Bedchamber in the Months of *August* and *December* last.

At her Examination before a Committee of the Privy Council, *Bishop Burnet* says, she confessed all, and signed her Confession: But a very few lines afterwards, the Bishop says, at her Examination before a Committee of the House of Lords, it was not clear how much she confessed: But whatever the Queen confessed, or what Evidence soever they had against her and the Lady *Rockford*, it was not thought fit to allow them the benefit of a Tryal, but to attaint them both of High Treason by Act of Parliament.

The Parliament meeting therefore on the 16th of *January* 1541-2, the Lord Chancellor on the 28th of the same Month, moved the House of Lords to consider the King's Case in Relation to the Queen's Incontinence. Whereupon a Committee was sent to examine the Queen in the *Tower*: Upon whose Report a Bill was brought in wherein the House Petition his Majesty, *First*, That he would not be troubled at the matter, since that might be a means to shorten his Life. *2dly*, To pardon every thing that had been spoken against the Queen. *3dly*, That the Queen and her

Accomplices might be attainted of High Treason, for her taking *Deirham* into her Service, and another Woman into her Chamber, who had known their former ill Life, by which it appeared what she intended to do: And then admitting *Culpeper* to be so long with her in a vile Place so many Hours in the Night. Therefore it is desired, that she and they, with the Bawd the Lady *Rockford*, may be attainted of Treason: And that the Queen and the Lady *Rockford* should suffer the Pains of Death. *4thly*, That the King would not trouble himself to give his Assent to this Act in his own Person, but grant it by his Letters Patents under his Hand and Great Seal. *5thly*, That the Dutchess Dowager of *Norfolk*, Countess of *Bridgewater*, the Lord *William Howard* and his Lady, and four other Men, and five Women, who were already attainted by the course of common Law (except the Dutchess of *Norfolk*, and the Countess of *Bridgewater*) that knew the Queen's vicious Life, and had concealed it, should be all attainted of Misprision of Treason.

It was afterwards enacted, that whosoever knew any thing of the Incontinence of the Queen (for the Time being) should reveal it with all possible speed, under the Pains of Treason: And that if the King or his Successors should intend to marry any Woman, whom they took to be a pure and clean Maid, if she not

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33 H. VIII.

1541.
33 H. VIII.
High Treason for the Queen, or Misprision for any other to conceal the Queen's Incontinence.

The Bill passed, and the Queen and Lady Rochford executed.

being so, did not declare the same to the King, it should be High Treason; and all who knew it, and did not reveal it, should be guilty of Misprision of Treason. And if the Queen, or the Prince's Wife should procure any by Messages, or Words, to know her carnally, or any other by Messages or Words should solicit them, they, their Counsellors and Abettors, are to be adjudged High Traitors.

This Act being assented to by the Commissioners authorized to pass it by the King's Letters Patent, the Queen and Lady Rochford were beheaded on Tower-hill the twelfth of February. The Queen confessed the Miscarriages of her former Life, before the King married her: But stood absolutely to her Denial as to any thing after that; and protested to Dr White, afterwards Bishop of Winchester, That she took God and his Angels to be her Witnesses, upon the Salvation of her Soul, that she was guiltless of the Act of defiling her Sovereign's Bed, for which she was condemned.

From the Account Bishop Burnet gives of these Proceedings in his History of the Reformation, one would be inclined to think, that the Queen, Mannock and Deirham confessed the Charge on their first Examination by a Committee of the Council: His Words are, *The Archbishop of Canterbury and some other Counsellors, were sent to examine the Queen. She at first denied every Thing; but when she perceived it was already known, she confessed ALL, and set it under her Hand.* And speaking of the Examination of Deirham and Mannock by the Lord Privy Seal, he says, *They not only confessed all that was informed, but revealed some other Circumstances that showed the Queen had laid aside all sense of Modesty, as well as the fear of a Discovery.*

Now it appears from that very Letter from whence Bishop Burnet took his account of these Confessions that they related only to the Queen's Conduct before the King married her, as appears from some Paragraphs in the Letter itself; which it seems necessary therefore to transcribe in this Place, for the satisfaction of those who are inquisitive after Truth.

This Letter is dated the fourth of November 1541, and was sent by the Lord Chancellor Audley, and six other Lords of the Council to Paget the King's Ambassador in France. In one Para-

graph whereof they say, 'While the King's Majesty was in his Progress, one John Loffels came to the Archbishop of Canterbury, and declared unto him, that he had been with a Sister of his married in *Sussex*, which sometimes had been Servant with the old Dutcheſs of *Norfolk*; who did also bring up the said Mrs Katherine; and being with his said Sister, chanced to fall into communication with her of the Queen; wherein he advised her (because she was of the Queen's old Acquaintance) to sue to be her Woman; whereunto his Sister answered, that she would not so do, but she was very sorry for the Queen. Why, quoth Loffels? Marry quoth she, there is one Francis Deirham, who was Servant also in my Lady of *Norfolk's* House, which had lain in bed with her in his Doublet and Hose between the Sheets an hundred Nights; And there hath been such puffing and blowing between them, that once in the House, a Maid which lay in the House with her, said to me, she would lie no longer with her, because she knew not what Matrimony meant. And farther she said unto him, that one Mannock, sometimes also Servant to the said Dutcheſs, knew a privy Mark of her Body.'

The Lord Privy Seal being sent to examine Loffel's Sister, found the Woman in her Examination constant in her former Sayings: And Sir Thomas Wriotbesly, found by the Confession of Mannock, that he had commonly used to feel the Secrets and other Parts of her Body, e'er ever Deirham was so familiar with her; and Deirham confessed that he had known her carnally many times, both in his Doublet and Hose, between the Sheets and in naked Bed; alledging such Witnesses of three sundry Women one after another, that had laid in the same Bed with them when he did the Acts, that the matter seemed most apparent.

Whereupon the Queen was examined by the Archbishop of Canterbury, the Lord Chancellor, the Duke of Norfolk, the Lord Great Chamberlain of England, and the Bishop of Winchester; to whom at first she constantly denied it; but the Matter being so declared unto her, that she perceived it to be wholly disclosed, the same Night she disclosed the whole to the Archbishop of Canterbury, who took the Confession

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33 H. VIII.

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• sion of the same in Writing subscribed
• with her Hand : Then were the rest of
• the Number, being eight or nine Men
• and Women which knew of their
• doings, examined, who all agreed in one
• Tale.

• Now you may see what was done be-
• fore the Marriage, God knoweth what
• hath been done since then : But she
• had already gotten this *Deirham* into
• her Service, and trained him upon oc-
• casions, as sending of Errands and
• writing of Letters when her Secre-
• tary was out of the way, to come
• often into her Privy Chamber ; and
• she had gotten also into her Privy
• Chamber to be one of her Chamberers,
• one of the Women which had before
• lain in the Bed with her and *Deirham* :
• What this portended is easy to be con-
• jectured. Thus much we know for
• the beginning, whereof we thought
• meet to advertise you.

Sign'd, *Thomas Audley*, Chan-
cellor, *Earl Hertford*, *Wil-*
liam Southampton, *Robert*
Suffex, *Stephen Winton*, *An-*
tibony Wingfield.

Remarks on
these Pro-
ceedings.

There does not remain any thing of
the Proof in this Cause upon Record that
can be depended on, but this Letter from
the Privy Council to the Lord *Paget*, the
King's Ambassador in *France*. And if
there was no direct Proof of a Criminal
Correspondence between the Queen and
her Gallants after the King's Marriage,
it must be admitted the Sufferers had very
hard measure. As to the Queen and the
Lady *Rochford*, indeed there was an Act
of Parliament, or a Law made on pur-
pose to take away their Lives, and
therefore we cannot say it was done ille-
gally : But notwithstanding the Supream
Legislative Power of a Nation cannot

be said to act illegally, they may, and
certainly do sometimes act unjustly. And
in this Case it must be acknowledged
very unjust to attain the Queen for any
thing she had done before she married the
King. And what inclines me to think
her Offences before Marriage were the
only Crimes she was condemned for, is
that the Parliament provided, that it
should be High Treason for the future,
for a reputed Virgin not to come a Maid
to the King's Bed. It was not so before,
and therefore they were forced to make an
Act on purpose to execute her and the Vis-
countess *Rochford*.

But admitting there was a Proof of
the Queen's Criminal Conversation after
Marriage, this was not High Treason or
Capital in her. It was High Treason in-
deed for any Man to lye with the Queen
Consort by 25 *Edward III* : But that
Act does not make this Offence High
Treason in the Queen, which was the
reason that this Parliament enacted, it
should be High Treason for the future,
for the Queen to invite any Man to lye
with her.

But farther : I find in *Hollingshead*, that
Deirham insisted in his Defence, that the
Queen and he had entred into a Matri-
monial Contract, before she was married
to the King. And if so, she could not
be the King's lawful Wife ; and conse-
quently it could not be High Treason
in any Man to lye with her, much less
for her to admit Man to her Bed. But
the present Act I presume was smother-
ed, that the King might be revenged on
the Queen, and those who had been be-
fore-hand with him in her Embraces.

What became of *Mannock* the Queen's
first Lover does not appear to me, for
I find only *Culpeper* and *Deirham* tried
for the Fact.

1541.
33 H. VIII.

Proceedings against Sir JOHN NEVIL, and others, for *North*
High Treason. Anno 1541. 33 HEN. VIII.

1541.
33 H. VIII.
The Charge
against him.

SIR *John Nevil* was this Year pre-
vailed on, to appear at the Head
of an Insurrection in *Yorkshire*, by some
Monks who had been driven out of their
Monasteries ; but the King's Forces com-

ing upon him before he was in a condi-
tion to oppose them, he was taken Priso-
ner and executed in *Yorkshire*, together
with five Priests, and several more of the
Conspirators. Mr *Leigh*, *Tattershal*, and
some

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33 H. VIII.
Executed by
Arbitrary
Sentence.

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33 H. VIII.

The Countess of Salisbury executed.

some other Gentlemen of Quality were convicted and executed of the same Treason at London, and executed at Tyburn.

And whether the King suspected Cardinal Pole to be at the bottom of the Plot, or for what other reason does not appear, but he ordered the Countess of Salisbury, the Cardinal's Mother, then seventy Years of Age, to be beheaded in the Tower, where she had been Imprisoned several Years. This Lady being desired to lay her Head upon the Block, refused, declaring she was no Traytor, and told the Executioner, if he would

have her Head, he should get it as he could, which occasioned a Struggle between them: But at length he overpowered the poor Old Lady, and cut off her Head in a very indecent manner. Of all the Executions the King commanded during his long and cruel Reign, this was looked upon to be one of the most barbarous, and unbecoming a great Prince. She was his near Relation, the Daughter of George Duke of Clarence, Brother to Edward IV, and the last of the Plantagenets.

1541.
33 H. VIII.

Lord Grey.

Proceedings against LEONARD Lord GREY for High Treason, Anno 1541. 33 HEN. VIII.

1541.
33 H. VIII.

The Charge against him.

THE Treasonable Articles the Lord Grey was charged with, were his adhering to Cardinal Pole, and other the King's Enemies; his abandoning the King's Ordinance in Galloway, and conspiring at the Escape of his Nephew Fitz Gerald.

As he was no Lord of Parliament, a Commission of Oyer and Terminer, was issued to try him in London, and a Jury of Knights impanelled. But he confessed the Indictment, and saved the Court the trouble of hearing his Defence; whereupon Judgment passed on him as a Traytor; In pursuance whereof, he was beheaded on Tower-Hill, and afterwards attainted in Parliament.

He confessed it and is executed.

Attainted in Parliament.

The Lord Grey had been some time Deputy of Ireland, and not having a good understanding with the Council there, they occasioned his being recalled and committed to the Tower, in the Year 1450; and at this time furnished his Enemies with Facts, to found the abovesaid Articles upon.

He seemed to have merited of the Government according to Lord Herbert, by his Bravery and Conduct in the Service of the Crown, both in France and Ireland. But his Friendship for Cardinal Pole was a Crime that Henry VIII would never forgive.

1541.
33 H. VIII.

Lord Dacres &c.

Proceedings against THOMAS FINES, Lord DACRES, and others, for Murder. Anno 1541. 33 HEN. VIII.

1541.
33 H. VIII.

The Case.

THE Case was this; Several Gentlemen in the Neighbourhood of the Lord Dacres, had persuaded him to go with them and hunt in the night time, in the Park of Nicholas Pelham, Esq; at Laughton in the County of Suffex. And as they were going thither, meeting with John Busbrig, James Busbrig, and Richard

A Quarrel happened between them, and some of the young Lord's People; In which John Busbrig was so wounded that he died not long after. Whereupon his Lordship was apprehended and arraigned before his Peers, the Lord Chancellor Audley, being Lord High Steward: He was advised to confess

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Lord Dacres confessed the Fact and is hanged.

1541.
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His Accom-
plices con-
victed and
executed.

A Point of
Law resolv-
ed by all the
Judges.

feels the Fact, as the likeliest means to obtain the King's Pardon, and thereupon received Sentence of Death, on the 27th of June, and was hanged at Tyburn on the 29th.

John Mantel, John Froud, and John Roydon, the Gentlemen who accompanied the Lord Dacres, when he went to hunt in the said Park, were tryed also by a Commission of Oyer and Terminer, and convicted and executed for the same Fact. For it seems the Judges of that time were of Opinion, that where Men are going upon an unlawful Enterprize, as this of Hunting in Mr Pelham's Park was, and any one is killed by the Company in the way thither, they are all Guilty of Murder, though at a distance and out of sight of the Place where the Fact was committed. Whereas had a Person been killed in an accidental Rencounter, and the Person who killed him and his Com-

pany had not been engaged in an unlawful Design, it would have been but Manslaughter, and they would consequently have been entitled to the Benefit of their Clergy.

This was looked upon to be a very hard Case, since the Lord Dacres, or some of the Gentlemen who suffered with him, were not in view of the Place where the Person was killed, or knew any thing of it till some time afterwards. And his Lordship's Death was much lamented, as he was a fine young Gentleman of twenty four Years of Age, and of a noble Disposition. Some relate that he was treacherously persuaded by some pretended Friend, to plead guilty in hopes of begging his Estate. But if it was so, his Friend was disappointed, for his Lordship left a Son and Heir named Gregory, who was restored to his Estate and Honour, by an Act of Elizabeth.

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33 H. VIII.

His Accom-
plices con-
victed and
executed.

A Point of
Law resolv-
ed by all the
Judges.

Proceedings against THOMAS CULPEPER, Esq; a Gentleman of the King's Bedchamber, and FRANCIS DEIRHAM, Gent. for High Treason, on the first of December. Anno 1541, 33 HEN. VIII.

Culpeper, &c.

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33 H. VIII.

The Charge
against them.

THE Treason the Prisoners Thomas Culpeper and Francis Deirham were charged with, was a Criminal Conversation with the Queen Consort, Katherine Howard: For which they were arraigned at Guildhall, London, before the Lord Mayor, the Lord Chancellor, the Dukes of Norfolk and Suffolk, the Earls of Suffex and Hereford, and other Commissioners of Oyer and Terminer. It is said to have been proved against Deirham, that he had enjoyed the Queen both before and after her Marriage, and that Culpeper had lain with the Queen at Pontefract three several Nights, viz. on the 29th and 31st of August, and on the 1st of September 1551. And again at Lincoln, being introduced into the Queen's Bedchamber by the Lady Rochford, at Eleven o'Clock, at Night, where he staid till four the next Morning. Three Women are said to have given Evidence of these lewd Practises, of which they were Eye Witnesses; and that thereupon the Prisoners confessed their Guilt, and re-

ceived Sentence of Death as Traytors: And on the 10th of December 1541, they were both drawn upon a Sledge to Tyburn; where Culpeper had the favour of being beheaded only, but Deirham was hanged, dismembred, and quartered as usual, and both their Heads were set upon London-Bridge.

Deirham as our Historians relate, did at his first Examination affirm that he entred into a Marriage Contract with the Queen, before the King set his Affections on her, and that he concealed it afterwards for her Advancement, when he understood his Majesty's Inclinations.

On the 22d of the same Month of December, the following Ladies and Gentlemen were tryed and convicted at the King's Bench Bar, Westminster, for Misprison of Treason in concealing the Queen's Incontinence, (viz.) the Lady Margaret Howard, Wife of the Lord William Howard, Katherine Tilney, Alice Restwood, Joan Bulmer, Wife of Anthony Bulmer, Anne Howard, Wife of Henry Howard,

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They con-
fess and are
executed.

Others con-
victed of
concealing
the Queen's
Guilt.

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Howard, Esq; Main Tilney Widow, Margaret Bennet Wife of John Bennet, Edward Walgrave, and William Asbby, Gentlemen: The Lord William Howard, and ——— Dampart, Gent.

who were all adjudged to forfeit their Goods, and the Profit of their Lands for Life, and to remain in Prison till they died. And these Attainders were ratified by the ensuing Parliament.

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The Attainders ratified in Parliament.

Person, &c.

Proceedings against ANTHONY PERSON, Clerk, ROBERT TESTWOOD, and JOHN MARBECK, Choristers, and HENRY FILMER, all of the Town of Windsor, for Heresy, before Commissioners of Oyer and Terminer. Anno 1543. 35 HEN. VIII.

1543.
35 H. VIII.
The Charge against them.

THE Prisoners were generally charged with disbelieving Transubstantiation, and speaking contemptuously of the Mass, which by the Statute 31 Hen. VIII, that establishes the six Articles of Religion, providing that such Offenders shall be burnt, and forfeit as in Cases of High Treason.

A Commission of Oyer and Terminer being directed to Capon, Bishop of Sarum, Franklin Dean of Windsor, Rachel Parson of Reading, and to three Temporal Judges, Testwood, and the other three Prisoners were brought before them at Windsor; and a Jury impanelled, all of them Tenants of the Chappel; and none of them Inhabitants of the Town, lest they should favour their Neighbours: Of which the Prisoners in vain complained.

The Jury being sworn, the Indictment against Person was read, which according to Fox, was of the following Tenor, viz. That he preached two Years before in a Place called *Wingsfield*, and there said, That like as Christ was hanged between two Thieves, even so when the Priest is at Mass, and hath consecrated, and lifted him up over his Head, there he hanged between two Thieves, except he preached the Word of God truly, as he hath taken upon him to do.

Also that he said to the People in the Pulpit: Ye shall not eat the Body of Christ, as it did hang upon the Cross, gnawing it with your Teeth, that the Blood run about your Lips: But you shall eat him this day as ye eat him to mor-

row, the next day, and every day, for it refresheth not the Body but the Soul.

Also after he had preached and commended the Scripture, calling it the Word of God, he said as followeth: *This is the Word, this is the Bread, this is the Body of Christ;*

Also he said: That Christ sitting with his Disciples, took Bread and blessed it, and brake it, and gave it to his Disciples, saying, *Take eat, this is my Body.* What is this is to us, but to take the Scripture of God, and to break it to the People?

To this Anthony answered and said, I will be tried by God and his holy Word, and by the true Church of Christ, whether this be Heresy or no, whereof ye have indicted me this Day. So long as I preached the Bishop of Rome and his filthy Traditions, I was never troubled; but since I have taken upon me to preach Christ and his Gospel, ye have always sought my Life. But it maketh no matter, for when you have taken your Pleasure of my Body, I trust it shall not lie in your power to hurt my Soul. Thou callest us Thieves quoth the Bishop: I say quoth Anthony, ye are not only Thieves but Murderers, except ye preach and teach the Word of God purely and sincerely to the People, which ye do not, nor ever did; but have allured them to all Idolatry, Superstition, and Hypocrisy, for your own Lucre, and Glory's sake: Through the which ye are become rather Bitetheepes than true Bishops, biting and devouring the poor Sheep of Christ like

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35 H. VIII.
Person's Defence.

Filmer's Defence.

1543.
35 H. VIII.
like ravening Wolves, never satisfied with Blood, which God will require at your hands one Day, doubt it not. Then spake Symons his Accuser, standing within the Bar, saying, It is pity this Fellow had not been burnt long ago, as he deserved. In Faith quoth Anthony, if you had as you deserved, you were more worthy to stand in this Place than I: But I trust in the last Day, when we shall both appear before the Tribunal Seat of Christ, that then it shall be known which of us two hath best deserved this Place. Shall I have so long a Day, quoth Symons, holding up his Finger, Nay then I care not, and so the matter was jested out.

Then was Testwood's Indictment read, which charged him with saying, when the Priest was lifting up the Sacrament, What wilt thou lift up so high? What yet higher? Take heed let him not fall.

To this Testwood answered; saying, It was but a thing maliciously forged of his Enemies to bring him to his Death. Yes (quoth the Bishop) Thou hast been seen, that when the Priest should lift up the Sacrament over his Head, then wouldst Thou look down upon thy Book, or some other way, because thou wouldst not abide to look upon the blessed Sacrament. I beseech you my Lord, says Testwood, whereon did he look that marked me so well: Marry quoth Bucklayer the King's Attorney, he could not be better occupied, than to mark such Hereticks that so despised the blessed Sacrament.

Filmer's Indictment charged him with saying, That the Sacrament of the Altar is nothing but a Similitude and a Ceremony, and that if God were in the Sacrament of the Altar, he had eaten many Gods; which his Brother a poor Man was prevailed on by Doctor London, and William Symonds, on whom he depended, to testify against him.

Filmer denied the Words, and objected there was but one Witness, and the Law required two. The Attorney General replied, the Evidence of his own Brother was more to be regarded than two Witnesses.

Marbeck's Indictment was then read, which charged him with saying; that the holy Mass when the Priest doth consecrate the Body of our Lord is polluted, deformed, sinful and open Robbery of the Glory of God, which a Christian Heart ought both to abhor and flee. And the Elevation of the Sacrament, is the Similitude of the setting up of Images of the

Calves in the Temple, builded by Jeroboam, and that it is more abomination than the Sacrifices done by the Jews in Jeroboam's Temple to those Calves: And that certain and sure it is, that Christ himself is made in the Mass Man's Laughing Stock.

To this he answered and said: That these Words, whereof they had indicted him were not his, but the Words of a learned Man called John Calvin, and drawn out of a certain Epistle: Which the said Calvin had made, which Epistle he had but only written out, and that long before the six Articles came forth. So that now he was discharged of that offence by the King's general Pardon, desiring that he might enjoy the benefit thereof.

The Jury being withdrawn, after a short Recess, brought all the Prisoners in Guilty, and Sentence passed on them to be burnt as Hereticks; which was executed on three of them the next Day, but Marbeck was reprieved and was afterwards pardoned, having been taken notice of by the King, for his indefatigable Pains in making a Concordance of the Bible, which he made a great Progress in when he was apprehended, though he was a Man but meanly qualified for such an undertaking.

The other three as they were led through the Streets to their Execution, desired all faithful People to pray for them, and to stand fast in the Truth of the Gospel, and not to be moved at their Afflictions, for it was the happiest thing that ever had befallen them. Being tyed to the Stake, Filmer said: 'Be cheerful my Brethren, lift up your Hearts unto God, for after this sharp Breakfast, I trust we shall have a good Dinner in the Kingdom of Christ, our Redeemer.' Testwood lifting up his Hands and Eyes to Heaven, desired the Lord to receive his Spirit. And Person taking a good deal of Straw and laying it on his Head, said, 'This is God's Hat; Now am I drest like a good Soldier of Christ, by whose Merits alone I trust this Day to enter into his Joy.' After which the Fire was kindled, and they were burnt to Ashes.

It is observable here, that since the Act passed for establishing the six bloody Articles (as they were called), Persons accused of Heresy, were tryed by the Juries after the Course of the common Law; but before they were tryed in the Bishops Courts, and being convicted

Herefy,

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Marbeck's
Defence.

All the Pri-
soner's con-
victed.

Three Exe-
cuted.

Observations
on these
Proceedings.

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Testwood's
Defence.

Filmer's De-
fence.

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These Persecutors punished.

Herefy, were delivered over to the Secular Arm to be burnt: Whereupon the Writ *de Heretico Comburendo* issued to the Sheriff, commanding the Prisoner to be burnt. But at this time they were executed by virtue of the Sentence passed on them, by Commissioners of Oyer and Terminer, consisting both of Ecclesiasticks and Laymen.

Bishop Burnet in his History of the Reformation observes, 'That at the Examination and Trials of these Martyrs, Dr London and Symonds, a Lawyer and an Informer, had studied to fish out Accusations against many of the King's Servants, as Sir Philip Hobby, and Sir Thomas Cardine, with their Ladies, and several others who had favoured those Men. With these Informations, Okam, that had been the Clerk of the Court was sent to Gardiner: But one of the Queen's Servants who had discovered the Design, was before him at Court. Upon the Advertisement which he had brought,

Okam was seized on at his coming to Court, and all his Papers were examined, in which they discovered a Conspiracy against those Gentleman, with other Plots, which gave the King great offence; but the Particulars are not mentioned. So Doctor London and Symonds were sent for, and examined upon this Assertion; but they not knowing their Letters were intercepted, denied there was any such Plot, and being put to their Oaths, swore it. Then their own Hand Writing was produced against them: Upon which, they being thus perjured, were ordered to be carryed on Horseback, with their Faces to the Horses Tails, and Papers on their Foreheads, for their Perjury; and then to be set in the Pillory, both in Windsor, Reading, and Newbury, where the King was at that time. This was accordingly executed on them, but sunk so deep in Dr London's Heart, that he died soon after.'

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Askew, Belenian, &c.

Proceedings against ANNE ASKEW, RICHARD BELENIAN, a Priest of Shropshire, JOHN LASSELS, a Servant of the King's, and JOHN ADAMS, Taylor, for Herefy, Anno 1546. 38 HEN. 8.

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38 H. VIII.
The Charge

Mrs Askew's account of her Trial.

THE Herefy these Prisoners were charged with, was their disbelieving Transubstantiation, or that the Bread in the Sacrament of the Lord's Supper is converted into the real Body and Blood of Christ, after the Words of Consecration spoken by the Priest. Which Charge they confessed on their Examination: Particularly Mrs Anne Askew gives this account of her Trial at Guildhall.

'They said to me there: That I was an Heretick, and condemned by the Law, if I would stand in mine Opinion: I answered that I was no Heretick, neither yet deserved I any Death by the Law of God. But as concerning the Faith which I uttered and wrote to the Council, I would not (I said) deny it, because I knew it true. Then would they needs know if I would deny the Sacrament to be Christ's Body and

Blood; I said yea, for the same Son of God that was born of the Virgin Mary, is now glorious in Heaven, and will come again from thence at the latter Day, like as he went up, Acts i. And as for that you call your God, it is a piece of Bread. For a more proof thereof, mark it when you list; let it but lye in the Box for three Months, and it will be mouldy, and so turn to nothing that is good. Whereupon I am persuaded that it cannot be God.

After that they willed me to have a Priest; and then I smiled: Then they asked me if it were not good; I said I would confess my Faults unto God, for I was sure that he would hear me with Favour: And so we were condemned with a — My Belief which I wrote to the Council, was this: That the Sacramental Bread

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' Bread was left us to be received with
' Thanksgiving, in Remembrance of
' Christ's Death, the only Remedy of our
' Soul's Recovery; and that thereby we
' also receive the whole Benefits and Fruits
' of his most glorious Passion. Then
' would they needs know whether the
' Bread in the Box, was God or no: I
' said God is a Spirit, and will be wor-
' shipped in Spirit and Truth, *John iv.*
' Then they demanded, will you plainly
' deny Christ to be in the Sacrament? I
' answered that I believe faithfully the
' eternal Son of God not to dwell there.
' I neither wish Death, nor yet fear his
' Might; God have the Praise thereof
' with Thanks.

She also gave the following Account
of her being put to the Rack.

Of her being
put to the
Rack,

' I was sent from *Newgate* to the Sign
' of the *Crown*, where Master *Rich* and
' the Bishop of *London*, with all their
' Power and flattering Words, went a-
' bout to persuade me from God, but I
' did not esteem their glossing Pretences.

' Then came there to me *Nicholas Sax-*
' *ton*, and counselled me to recant as he had
' done: I said to him that it had been
' good for him if he had never been born,
' with many other like Words.

' Then Master *Rich* sent me to the
' *Tower*, where I remained till three
' o'Clock.

' Then came *Rich* and one of the Coun-
' cil, charging me upon my Obedience,
' to shew unto them if I knew any Man
' or Woman of my Sect: My Answer
' was that I knew none. Then they
' asked me of my Lady of *Suffolk*, my
' Lady of *Sussex*, my Lady of *Hertford*,
' my Lady *Denny*, and my Lady *Fitz-*
' *Williams*: To whom I answered; if
' I should pronounce any thing against
' them, that I were not able to prove it.
' Then said they unto me, That the King
' was informed, that I could name if I
' would a great number of my Sect:
' I answered that the King was as well
' deceived in that behalf, as he was dis-
' sembled with by them in other Mat-
' ters.

' Then they commanded me to shew
' how I was entertained in the *Counter*, and
' who willed me to stick to my Opinion:
' I said that there was no Creature that
' therein did strengthen me. And as for
' the help that I had in the *Counter*, it
' was by means of my Maid; for as she
' went abroad in the Streets, made moan
' to the Apprentices, and they by her did

' send me Money, but who they were
' I never knew.

' Then they said that there were divers
' Gentlewomen that gave me Money: I
' said I knew not their Names. Then
' they said that there were divers Ladies that
' had sent me Money: I answered that there
' was a Man in a blue Coat, which de-
' livered me ten Shillings, and said that
' my Lady of *Hertford* sent it me, and
' and another in a violet Coat gave me
' eight Shillings, and said my Lady
' *Denny* sent it me: Whether it was true or
' no I cannot tell; for I am not sure who
' sent it me, but as the Maid did say.
' Then they said there were of the Coun-
' cil that did maintain me: And I said,
' No.

' Then they did put me on the Rack
' because I confessed no Ladies or Gen-
' tlewomen to be of my Opinion, and
' thereon they kept me a long time;
' and because I lay still and did not cry,
' my Lord Chancellor and Master *Rich*
' took pains to rack me with their own
' Hands, till I was nigh dead.

' Then the Lieutenant caused me to
' be loosed from the Rack; incontinently
' I swooned, and then they recovered
' me again: After that I sat two long
' Hours reasoning with my Lord Chan-
' cellor upon the bare Floor; where he
' with many flattering Words persuaded
' me to leave my Opinion: But my
' Lord God, I thank his everlasting Good-
' ness, gave me Grace to persevere, and
' will do, I hope to the very end.

' Then was I brought to an House and
' laid in a Bed with as weary and pain-
' ful Bones as ever had patient *Job*; I
' thank my Lord God therefore. Then
' my Lord Chancellor sent me Word,
' if I would leave my Opinion I should
' want nothing; if I would not,
' I should forthwith to *Newgate*, and
' so be burned. I sent him again
' word, that I would rather die than
' break my Faith.

The Prisoner Mrs *Akew* appears to
have been first examined and adjudged an
Heretick by Doctor *Bonner* Bishop of
London, and afterwards tried by Com-
mission of Oyer and Terminer at *Guild-*
ball, on the Statute of *Hen. VIII.* which
establishesthe six Articles of Religion,
among which, that of Transubstantiation
is the chief; the denying whereof is
made Capital, and punished by burning.
The Proceedings against the other three
Prisoners, *Viz. Lassels, Adams, and Be-*
lenian

Proceedings
against the
other three
Prisoners,

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38 H. VIII.Mrs Askew's
Letter to her
Fellow Pri-
soner:

lenian, were probably the same; they being executed for Heresy in the same manner, and at the same time Mrs Askew was, and she appearing to have a Correspondence with them from the following Letter to *Lassels*, wherein she says,

' O Friend, most dearly beloved in God: I marvel not a little what should move you to judge in me so slender a Faith as to fear Death, which is the end of all Misery. In the Lord I desire you not to believe of me such Wickedness; for I doubt it not, but God will perform his Work in me, like as he hath began. I understand the Council is not a little displeased, that it should be reported abroad that I was racked in the Tower. They say now, that what they did there was but to fear me, whereby I perceived they are ashamed of their uncomely Doings, and fear much least the King's Majesty should have Information thereof; wherefore they would no Man to noise it. Well! their Cruelty God forgive them.

*Your Heart in Christ Jesus, Farewell,
and pray.*

The Beha-
viour of Mrs
Askew and
the rest of
the Prisoners
at their Ex-
ecution.

Mrs Askew, on the Day appointed for her Execution, was brought to *Smithfield* in a Chair, because she could not go on her Feet, by means of her great Torments. When she was brought unto the Stake, she was tyed by the middle with a Chain that held up her Body. When all Things were thus prepared to the Fire, Dr *Saxton* who was then appointed to preach, began his Sermon; *Anne Askew* hearing and answering again unto him: Where he said well, confirmed the same; where he said amiss, there, said she, he misseth and speaketh without the Book.

The Sermon being finished, the Martyrs standing there, tied at three several Stakes ready to their Martyrdom, began their Prayers. The Multitude and Concourse of the People was exceeding; the Place where they stood being railed about to keep out the Prease. Upon the Bench under St *Bartholomew's* Church sat *Wrisley* (*Wriotbesly*) Chancellor of England, the old Duke of *Norfolk*, the old Earl of *Bedford*, the Lord Mayor, with divers other mo. Before the Fire was set unto them, one of the Bench hearing that they had Gunpowder about them, and being afraid, lest the Faggots by strength of the Gunpowder would come flying about their Ears, began to be afraid. But the Earl of *Bedford* declaring unto him how the Gunpowder was not laid under the Faggots, but only about their Bodies to rid them out of their Pain, which having vent, there was no danger to them of the Fagots, diminished that Fear.

Then *Wrisley* (*Wriotbesly*) Lord Chancellor sent to *Anne Askew* Letters, offering to her the King's Pardon if she would recant. Who refusing once to look upon them, made this Answer again, ' That she came not thither to deny her Lord and Master.' Then were the Letters likewise offered unto the others, who in like manner following the Constancy of the Woman, denied not only to receive them, but also to look upon them. Whereupon the Lord Mayor commanding Fire to be put to them, cryed with a loud Voice, *Fiat justitia*.

Mrs Askew it appears was a Lady of Quality, and had a large Acquaintance among those of the first Rank at Court; but they could not preserve her from that tyrannical Administration.

They refuse
a Pardon.

Proceedings

Proceedings against HENRY HOWARD, Esq; *eldest Son* Earl of Sur-
of THOMAS Duke of Norfolk, (*called by Curtesy* ry.
Earl of Surry) for High Treason, before the Lord
Chancellor, the Lord Mayor and other Commissioners of
Oyer and Terminer at Guildhall, London. Janu-
ary 13, Anno 1546-7. 38 HEN. VIII.

1546-7.
38 H. VIII.
The Charge.

THE Earl was indicted of High Treason, in quartering the Arms of Edward the Confessor, and entertaining a Correspondence with Cardinal Pole, a Person attainted of High Treason; and with some intemperate Expressions, seeming to threaten the Royal Family.

His Defence.

In his Defence he denied his Correspondence with Pole, and the Expressions he was charged with. And as for the

Arms, he said he had constantly quartered them without any Intimation that he had done amiss, and appealed to the Heralds if they were not blazon'd in the manner they ought.

The Jury however found the Earl Guilty, and he received Sentence of Death as a Traytor, and was beheaded on Tower Hill on the 19th of the same Month of January.

1546-7.
38. HVIII.

Convicted
and Execu-
ted.

Proceedings against THOMAS Duke of Norfolk, Duke of
for High Treason in Parliament, January 1546. Norfolk.
38 HEN. VIII.

1546.
38 H. VIII.
The Charge.

THE Charge against the Duke was his conniving at his Son, the Earl of Surrey, quartering the Arms of England; and his uttering some Complaints, implying his disaffection to the Government, upon his being excluded from the King's Secret Councils.

He confessed it.

While he was a Prisoner in the Tower, he wrote a Letter to the King protesting his Innocence, and declaring that he could not conceive what his Majesty had taken Offence at. But finding this had no effect, he wrote another Letter to the King, acknowledging he had been guilty of concealing that his Son had quartered the Arms of Edward the Confessor; and that himself had borne the Arms of England, in the first Quarter of his Arms, with a difference of the Labels of Silver, which only belonged to the King's eldest Son, and this he acknowledged to be High Treason. But neither did this at all mollify the King, his Majesty still seemed de-

termined to destroy him: And for that purpose only, 'tis said, the Parliament was assembled in the beginning of January, in which a Bill was passed to attain the Duke of High Treason, without suffering him to make his Defence. The Bill received the Royal Assent by Commission, on the 27th of the same Month, and a Warrant was immediately signed for the Duke's Execution on the 29th of January. But the King dying in the Night between the 28th and 29th, the Duke had the good Fortune to escape.

It must be admitted, that there was nothing contained in the Charge against the Duke of Norfolk, and his Son the Earl of Surrey, that would have amounted to High Treason, if the whole had been proved. Neither is it easy to conceive why the King should take such extraordinary Measures to destroy these Noblemen, when none had served him with greater Fidelity or Success. But it is suggested

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He is attainted
by Parlia-
ment.

Remarks on
these Pro-
ceedings.

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suggested by some of our Historians, that the King as well as the *Seymours* (Uncles to Prince *Edward*) were apprehensive that upon the Demise of the Crown, the Duke of *Norfolk*, and the Papists, would endeavour to set the Princess *Mary* upon the Throne, to the exclusion of the Prince. And as they would be supported by the Emperor, and other Foreign Powers in an attempt of this nature, there was but too great a Probability of their succeeding. It was also insinuated, that the Earl of *Surrey*, the Duke of *Norfolk's* Son, kept himself unmarried with a View of making the Princess *Mary* his Wife, as soon as the King's Eyes were closed. But whatever were the King's Inducements to destroy the *Norfolk* Family, he no sooner discovered an Aversion to the *Howards*, but all their Enemies (as is frequently the Case of falling Courtiers) officiously endeavoured to confirm his Majesty's Suspicions; and to render themselves acceptable by relating

every little Circumstance that might promote the Duke's disgrace. Among these the Dutcheſs of *Norfolk*, the Duke's Wife, and his Daughter were the Chief, and the more hearkened to, as they were so nearly related to him. The Dutcheſs it seems, was provoked by her Lord's forsaking her Bed for four Years together, and spending his time among his Mistresses. And their Daughter the Dutcheſs of *Richmond*, being inclined to the Protestants, was carried so far by a Zeal for her Party, as to do her Father and Brother all manner of ill Offices on this occasion. Nay, it appears that Mistress *Holland*, one of the Duke's Mistresses, became an Evidence against him. So that there was no part of his private Conversation or unguarded Discourse, but was brought to his Majesty; on which no doubt, the worst Interpretation was put, till at length we find it swelled into a Charge of High Treason against the Father and Son.

1546.
38 H. VIII.

Kett, &c.

Proceedings against ROBERT KETT, Tanner, WILLIAM KETT, his Brother, and others, for High Treason. Anno 1549. 3 EDW. VI.

1549.
3 Edw. VI.Their
Crime, Re-
bellion.Convicted
and execu-
ted.

ROBERT and *William Kett*, Captains of the *Norfolk* Rebels, though taken in actual Rebellion, had the favour of being carried to *London*, and tryed there by a Commission of Oyer and Terminer, where being convicted and condemned for High Treason, they were sent down to *Norfolk* to be executed. *Robert* was afterwards hanged in Chains upon *Norwich Castle*, and *William* upon the Steeple of *Wymondham*, of which he was a Native, being the Place where the Insurrection began.

Nine more of their Chiefs were hanged

on the Tree of Reformation near *Norwich*, by Martial Law: Among whom were two of their Prophets, who pretended to foretell their Success; and an excellent Gunner, who had done great Execution among the King's Forces.

There was an Insurrection about the same time in *Yorkshire*, which being suppressed, the Chiefs of the Rebels (among whom were *William Omble*, Gent. and *Thomas Dale*, Clerk) were executed by Martial Law.

The occasion of this Rebellion will be seen at the end of the next Proceedings.

1549.
3 Edw. VI.
Nine of
their Ac-
complices
executed.*William Omble*, &c. executed.

Proceedings.

Proceedings against HUMPHERY ARUNDEL, Esq; Arundel, &c.,
 THOMAS HOLMES, WINSTOWE, BURY, ——— WELSH,
 Clerk, Vicar of St Thomas's, ——— BOYER, Mayor
 of Bodmyn in Cornwall, ———, Miller of the same
 Country, and others, for High Treason and Rebellion.
 Anno 1549. 3 EDW. VI.

1549.
3 Edw. VI.
The Case.

A Rundel, Holmes, Winstowe, and Bury, being taken in actual Rebellion in Devonshire, were sent up to London, where they were condemned and executed as Traytors. The rest were executed by Sir Anthony Kingston, Provost Marshall in Devonshire and Cornwall; some of them with very little Justice or Colour of Law, if we may Credit our Historians.

Execution
without
Trial.

Sir John Hayward relates, That Boyer was forced into this Rebellion, as many other innocent Men were: And that the Marshal wrote him word he would dine at his House upon a day which he appointed. The Mayor seemed glad, and made for him the best Provision that he could. Upon the Day he came, and a large Company with him, and was received with many Ceremonies of Entertainment. A little before Dinner he took the Mayor aside, and whispered him in the Ear, that Execution must that Day be done in the Town; and therefore required him that a pair of Gallows should be framed and erected against the time that Dinner should end. The Mayor was diligent to accomplish his Demand; and no sooner was Dinner ended, but he demanded of the Mayor whether the Work was finished. The Mayor answered that all was ready. I pray you said the Provost bring me to the place, and there-with he took him friendly by the hand. Here, beholding the Gallows, he asked the Mayor whether he thought them to be strong enough: Yes said the Mayor doubtless they are. Well, said the Provost, get you up speedily, for they are prepared for you. I hope, answered the Mayor, you mean not as you speak. In Faith, said the Provost, there is no remedy, for you have been a busy Rebel; and so without Respite or Defence he was strangled to Death.

NUMB. VI.

Near the said Place dwelt a Miller, who had been a busy Actor in that Rebellion, and fearing the approach of the Provost Marshal, told a sturdy tall Fellow his Servant, that he had occasion to go from Home: And therefore gave Directions that if any one should enquire after the Miller, he should not speak of him, but affirm that himself was the Miller, and that so he had been for three Years before. So the Provost came and called for the Miller: His Servant came forth and said, he was the Man. The Provost demanded how long he had kept the Mill: These three Years answered the Servant. Then the Provost commanded his Men to lay hold on him, and to hang him on the nearest Tree. Then the Miller cryed out that he was not the Miller, but the Miller's Man: Nay Sir, answered the Provost, I will take thee at thy Word; and if thou beest the Miller, thou art a busy Knave; If thou beest not, thou art a false lying Knave, whatsoever thou art thou shalt be hanged. When others also told him, that the Fellow was but the Miller's Man: And what then said he? Could he ever have done his Master a better Service than to hang for him? and so without much more to do he was dispatched.

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3 Edw. VI.

As to Welsh the Priest, indeed he seems to have had his Deserts: He not only opposed the Government in Reformation of Religion, and continued to say Mass in his Parish after it was abolished by Law, but became one of the Principal Incendiaries and Leaders in the Western Rebellion: For which he was hanged by the like Authority, on a Gallows erected on the Top of the Steeple of his Parish Church: And there remained in Chains a considerable time in his Priests Habit, a Holy water Pot, a Sacring Bell, a Pair

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of

1549.
3 Edw. VI.

of Beads, and other Popish Trinkets hung about him. Several more of the Rebel Captains were hanged by Martial Law, and the whole Country given up to the plunder of the Soldiers; consisting of Foreigners, as well as National Troops, who made very little distinction between Friends and Foes.

Bishop Burnet in his History of the Reformation, has given us the following Account of the Occasion and Progress of this Rebellion (*viz.*

The Occasion of that Rebellion.

While the Monasteries stood, that Prelate observed there were great Numbers of People maintained about these Houses: Their Lands were easily let out, and many were relieved by them. But now the Numbers of the People increased much, Marriage being universally allowed. They also had more time than formerly, by the abrogation of many Holy-days, and the putting down of Processions and Pilgrimages; so that as the Numbers increased, they had more time than they knew how to bestow. Those who bought in the Church Lands, as they every where raised their Rents, of which old *Lati-mer* made great Complaints in one of his Court Sermons, so they resolved to enclose their Grounds, and turn them to Pasture. For Trade was then rising fast, and Corn brought not in so much Money as Wool did. Their Flocks also being kept by few persons in Grounds so enclosed, the Landlords themselves enjoyed the Profits which formerly the Tenants made out of their Estates: And so they intended to force them to serve about them at such Rates as they would allow. By this means the Commons of *England* saw they were like to be reduced to great Misery.

The Protector seemed much concerned for the Commons, and oft spoke against the Oppression of Landlords. He was naturally just and compassionate, and so did heartily espouse the Cause of the poor People, which made the Nobility and Gentry hate him much. He caused a Commission to be issued out to enquire about Inclosures and Farms, and whether those who had purchased the Abbey-lands kept Hospitality; to which they were bound by the Grants they had of them; and whether they encouraged Husbandry. But I find no Effect of this. And indeed there seemed to have been a general Design among the Nobility

and Gentry to bring the inferior sort to that low and servile State to which the Peasants in many other Kingdoms are reduced.

In May 1549 the Commons first rose in *Wiltshire*; where Sir *William Herbert* gathered some resolute Men about him, and dispersed them, and slew some of them. Soon after that, they rose in *Suffex*, *Hampshire*, *Kent*, *Gloucestershire*, *Suffolk*, *Warwickshire*, *Essex*, *Hertfordshire*, *Leicestershire*, *Worcestershire*, and *Rutlandshire*. But by fair Persuasions the Fury of the People was a little stopt, till the Matter should be represented to the Council. The Protector said, he did not wonder the Commons were in such Distempers, they being so oppressed, that it was easier to die at once than to perish for Want. And therefore he set out a Proclamation, contrary to the Mind of the whole Council against all new Inclosures; with another indemnifying the People for what was past, so they carried themselves obediently for the future. Commissions were also sent every where, with an unlimited power to the Commissioners to hear and determine all Causes about Inclosures, Highways and Cottages. But the Protector being opposed by the Council, he was not able to redress this Grievance so fully as the People hoped. So in *Oxfordshire* and *Devonshire* they rose again, and also in *Norfolk* and *Yorkshire*. Those in *Yorkshire* were dispersed by a Force of 1500 Men, led against them by the Lord *Grey*. Some of them were taken and hanged by martial Law, as being in a State of War; the greatest Part ran home to their Dwellings.

In *Devonshire* the Insurrection grew to be better formed, for that County was not only far from the Court, but it was generally inclined to the former Superstition, and many of the old Priests ran in among them. They came together on the tenth of *June*, being *Whit-munday*, and in a short Time they grew to be 1000 strong. At Court it was hoped this might be as easily dispersed as the other Risings were: But the Protector was against running into Extremities, and so did not move so speedily as the Thing required. He after some Days, at last sent the Lord *Russel* with a small Force to stop their Proceedings. And that Lord remembering well how the Duke of *Norfolk* had with a very small

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3 Edw. VI.

The first Insurrection.

The Devonshire Rebellion.

1549.
Edw. VI.

A small Army broken a formidable Rebellion in the former Reign, hoped that Time would likewise weaken and disunite these. And therefore he kept at some Distance, and offered to receive their Complaints, and to send them to the Council. But these Delays gave Advantage and Strength to the Rebels, who were now led on by some Gentlemen, *Arundel of Cornwall* being in chief Command among them. And in Answer to the Lord *Ruffel*, they agreed on fifteen Articles, in which they demanded the Restoration of Popery and the Abby-lands, as the only Remedy for all their Grievances: But their Demands were rejected.

Let's Rebellion in Norfolk.

In the mean Time, viz. on the 6th of July, a Rebellion broke out in *Norfolk*, the People making Choice of the aforesaid *Robert Kett* a Tanner for their Leader. These pretended to be aggrieved by the Inclosures lately made, the Tyranny of the Gentry and the evil Counsellors about the King. The Malecontents on this Side encreased to twenty Thousand, and pitching their Camp on *Moushold-hill* above *Norwich* were much favoured by many in that City. *Kett* their Leader here assumed to himself a Power of Judicature, and under an old Oak, called from thence the Oak of Reformation, did such Justice as might be expected from such a Judge, and in such a Camp. The Marquis of *Northampton* was sent against them, but with Orders to keep at a Distance from them, and to cut off their Provisions. For so it was hoped, without the shedding much Blood they might come to themselves again. When the News of this Rising came into *Yorkshire*, the Commons there rose also, being farther encouraged by a Prophecy, *That there should be no King nor Nobility in England, that the Kingdom should be ruled by four Governors chosen by the Commons*. They at their first Rising fired Beacons, and so gathered the Country, as if it had been for the Defence of the Coast; and meeting two Gentlemen, they without any Provocation, murdered them and left their naked Bodies unburied.

The Rebels in *Devonshire* at the same time besieged *Exeter*, where the Citizens resisted them with great Courage: They set Fire to the Gates of the City, which those within fed with Fuel for hindering their Entry, till they had rais'd a Rampart within the Gates. And when the Rebels came to enter, the Fire be-

ing spent, they killed many of them. The Rebels also wrought a Mine, but the Citizens countermined, and poured in so much Water as spoiled their Powder. So finding they could do nothing by force, they resolved to lie about the Town, reckoning that the want of Provision would make it soon yield. The Lord *Ruffel* having but a small Force with him, stayed a while for some Supplies, which Sir *William Herbert* was to bring him from *Bristol*. But being afraid that the Rebels should inclose him, he marched back from *Honnington*, where he lay, and finding they had taken a Bridge behind him, he beat them from it, killing 600 of them without any Loss on his Side. By this he understood their Strength, and saw they could not stand a brisk Charge, nor rally when once in disorder. So the Lord *Grey* and *Spinnola* that commanded some mercenary Germans, joining him, he returned to raise the Siege of *Exeter*; which was much streightned for want of Victuals: They within had eaten their Horses, and endured extreme Famine, but resolved to perish rather than fall into the Hands of those Savages: For the Rebels indeed were no better. They had blocked up the Ways, and left 2000 Men to keep a Bridge which the King's Forces were to pass. But the Lord *Ruffel* broke thro' them, and killed about a thousand of them. Upon that the Rebels raised the Siege, and retired to *Lanceston*, and were soon after totally dispersed. But the Marquis of *Northampton* was not so successful in *Norfolk*: He carried about 1100 Men with him, but did not observe the Orders given him, and so marched on to *Norwich*. The Rebels were glad of an Occasion to engage with him, and fell in upon him, the next Day with great Fury. And the Town not being strong, he was forced to quit it, but lost 100 of his Men in that Action; among whom was the Lord *Sheffield*, who was much lamented. The Rebels took about thirty Prisoners, with which they were much lifted up. This being understood at Court, the Earl of *Warwick* was sent against them with 6000 Foot and 1500 Horse, that were prepared for an Expedition to *Scotland*. He came to *Norwich*, but was scarce able to defend it, for the Rebels fell often in upon him; neither was he well assured of the Town. But he cut off their Provisions; so that the Rebels having wasted all the Coun-

1549.
3 Edw. VI.

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3 Edw. VI.

try about them were forced to remove. And then he followed them with his Horse. They turned upon him, but he quickly routed them and killed 2000 of them, and took *Kett* their Captain, with his Brother; who with eight or nine more of the Chiefs were executed, as is related already.

The Rebels in *Yorkshire* had not become very numerous, not being above three thousand in all: But hearing of the defeating of those in other Parts, they accepted of the Offer of Pardon that was sent them. Only some few of the chief Ringleaders continued to make new Stirs, and were taken and hanged in *York* the *September* following.

When these Commotions were thus over, the Protector pressed that there might be a general and free Pardon speedi-

ly proclaimed for quieting the Country, and giving their Affairs Reputation abroad. This was much opposed by many of the Council, who thought it better to accomplish their several ends, by keeping the People under the lash. But the Protector was resolved on it, judging the State of Affairs required it. So he gave out a general Pardon of all that had been done before the 21st of *August*, excepting only those few, whom they had in their Hands, and resolved to make publick Examples. Thus was *England* delivered from one of the most threatening Storms that at any time had broke out in it: In which deliverance the great Prudence and Temper of the Protector, says Bishop *Burnet*, seems to have had no small share.

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3 Edw. VI.

Butcher.

Proceedings against JOAN BUTCHER, usually called JOAN of Kent, for Heresy. Anno 1549. 3 EDW. VI.

1549.
3 Edw. VI.
The Charge
against her.

THE Heresy the Prisoner was charged with, was, *That she did not believe Christ took Flesh of the Virgin, for which she assigned this reason, viz. That the Flesh of the Virgin being the outward Man, was sinfully gotten and born in Sin, but the Word by the Consent of the inward Man of the Virgin was made Flesh.*

Adjudged an
obstinate
Heretick.

The Bishop took much pains, according to the Authors of the History of the Reformation, to make the Prisoner alter her belief. But, says Bishop *Burnet*, she was so extravagantly conceited of her own Notions, that she rejected all they said with Scorn; whereupon she was adjudged an obstinate Heretick, and so left to the Secular Power. Doctor *Heylin* relates, that when Archbishop *Cranmer* was about to pass Sentence upon her, she reproached him for passing the like Sentence upon *Anne Askew*, for denying the Carnal Presence of Christ in the Sacrament; adding, that as he had condemned the said *Askew* for a Piece of Bread, he would now condemn her for a Piece of Flesh. Bishop *Burnet* adds, that good King *Edward* was moved to sign a Warrant for burning her, but could not be prevailed on to do it. He thought it a piece

of Cruelty, too like that which they had condemned in Papists, to burn any for their Consciences. And in a long Discourse he had with Sir *Jo. Cheek*, he seemed much confirmed in that Opinion. *Cranmer* was employed to persuade him to sign the Warrant. He argued from the Law of *Moses*, by which Blasphemers were to be stoned. He told the King he made a great Difference between Errors in other points of Divinity, and those which were directly against the Apostles Creed: That these were Impieties against God, which a Prince as being God's Deputy, ought to punish as the King's Deputies were obliged to punish Offences against the King's Person. These reasons did rather silence than satisfy the young King, who still thought it a hard thing, (as in truth it was) to proceed so severely in such Cases. So he set his Hand to the Warrant with Tears in his Eyes, saying to *Cranmer*, that if he did wrong, since it was in Submission to his Authority, he should answer for it to God. This struck the Archbishop with much Horror; so that he was very unwilling to have the Sentence executed. And both he, and *Ridley*, took the Woman then in Custody to their Houses, to see if they could persuade

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3 Edw. VI.

1549.
3 Edw. VI.

persuade her. But she continued by Jeers and other Insolences, to carry herself so contemptuously, that at last the Sentence was executed on her; the second of May the next Year, Bishop *Scory* preaching at her Burning. She carried herself then as she had done in the former parts of her Process, very indecently, and in the end was burnt.

This Action was much censured, as being contrary to the Clemency of the Gospel, and was made oft use of by the Papists; who said it was plain that the Reformers were only against Burning, when they were in fear of it themselves. The Woman's Carriage made her be looked on as a frantick Person, fitter for *Bedlam* than a Stake.

1549.
3 Edw. VI.

Proceedings against *GEORGE PARE or PARIS, a Dutch-Paris.*
man, for Heresy. Anno 1551: 5 EDW. VI.

1551.
5 Edw. VI.
The Charge
against him.

THE Heresy the Prisoner was charged with, was his maintaining, *That God the Father was only God, and that Christ was not very God.* He was convicted and condemned in the Bishop's Court, and delivered over to the Secular Power to be burnt: Accordingly, in *Smithfield*, on the 25th of April 1551, he suffered with great Constancy, kissing the Stake and Faggots prepared to burn him. Bishop *Burnet* adds, I find a Popish Writer saying, the Prisoner was a Man of most wonderful strict Life, that he used not to eat above once in two Days, and before he did eat would lie sometime in his Devotion prostrate on the Ground. All this they made use of to lessen the Credit of those who had suffered formerly. For it was said, they saw now that Men of harmless Lives, might be put to Death for Heresy, by the Confession of the Reformers themselves. And in all the Books published in Queen *Mary's* Days, justifying her Severity

against the Protestants, these Instances were always made use of: And no part of *Cranmer's* Life exposed him more than this did. It was said, he had consented both to *Lambert's* and *Anne Askew's* Death, in the former Reign; who both suffered for Opinions which he himself held now: And he had now procured the Death of these two Persons. And when he was brought to suffer himself afterwards, it was called a just Retaliation on him.

1551.
5 Edw. VI.

It is observable that the Statute which established the six Articles, being repealed in this Reign, Hereticks were not now proceeded against in the Courts of common Law, as in the latter end of the Reign of *Henry VIII*: But they were convicted and condemned in the Ecclesiastical Courts, and then delivered over to the Secular Arm to be burnt, as they were before the Act for establishing the six Articles was made.

Remark on
these Trials.

U u

Proceedings

Convicted
and execu-
ted.

Duke of
Northumber-
land, &c.

Proceedings against JOHN DUDLEY Duke of Northumberland, WILLIAM PARR Marquis of Northampton, and JOHN Earl of Warwick, for High Treason, before THOMAS Duke of Norfolk Lord High Steward, and other Peers, commissioned to try them in Westminster-Hall, on the eighteenth of August, Anno 1553.

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The Charge
against them.

THE Treason these Noblemen were charged with, was, Their levying War against the Queen, with an Intention to depose her Majesty, and advance the Lady Jane Grey to the Throne, who was the Daughter of Henry Grey, Duke of Suffolk, and of the Lady Frances, eldest Daughter of Charles Brandon, Duke of Suffolk, and of Mary second Sister to Henry VIII, and Widow of Lewis XII, the French King.

Being brought to their Trial, the Duke of Northumberland said, they should not controvert the matter of Fact they were charged with, but denied the Judgment of the Court, as to these two Points.

Their De-
fence.

First, Whether a Man acting by Authority of the Prince's Council, and by Warrant of the Great Seal of England, and doing nothing without the same, might be charged with Treason for any thing which he might do by Warrant thereof.

Secondly, Whether any such Persons which were equally culpable in that Crime, and those by whose Letters and Commandments he was directed in all his doings, might be his Judges, or pass upon his Tryal as his Peers.

Over ruled.

To the first Question the Court by advice of the Judges, answered, that the Broad Seal pleaded by the Duke, was not the Seal of the lawful Queen of the Realm, nor passed by Authority, but the Seal of an Usurper; and therefore could be no Warrant to him. The Answer to the second Question was: That if any Persons were as deeply concerned in the Revolt as himself, yet in regard there was no Attainder upon Record against them; they were qualified by Law to pass upon any Trial, and not

to be challenged but at the Prince's Pleasure. To this the Duke made but little reply, but confessed the Indictment, and so likewise did the other Prisoners: Whereupon Sentence was pronounced on them as Traytors.

The next Day being the 19th of August, Sir John Gates, Sir Henry Gates, Sir Andrew Dudley, and Sir Thomas Palmer, were arraigned before Commissioners of Oyer and Terminer, for High Treason: in levying War against the Queen, in order to depose her Majesty, and set the Lady Jane Grey upon the Throne; and pleading Guilty, they were in like manner adjudged Traytors.

The Duke being brought to the Scaffold on Tower Hill, on the 22d of August, he cautioned the People against Novelties in Religion; and charges his Death upon his being misled by false Teachers. That these seditious Preachers had opened the Book, but did not know how to shut it: He exhorts them therefore to return to the old Catholick Faith: That since this new Teaching was entertained, God had withdrawn his Grace; given up the Nation; and punished them with Tumults and Rebellion, with Plague and Famine; not to mention other Calamities: He therefore continues to exhort them to pay their Duty to the Government, and recover themselves to the antient Belief: That the Confusions in Germany were a dismal Instance of the danger in quitting the true Religion: That the Catholick Faith was an Article of our Creed: That this Declaration was voluntarily and unsuggested; and that it was formerly his inward Belief, he appeals to the Bishop of Worcester. After which he

1553.
I Marie.
Convicted
on their Con-
fession.

Sir John
Gates, &c.
convicted on
their Con-
fession.

The Duke's
Behaviour
at his Execu-
tion.

1553.
I Marie.
The Charge
against
them.
Confesse

G. Dudley
and his
Wife the
Lady Jane
Grey ex-
ecuted;

he submitted to the Block, and the Executioner did his Office.

The Duke was eldest Son to Sir *Edmund Sutton*, alias *Dudley*, who was a Judge in the Reign of King *Henry VII.* It was he and *Empson* another Judge who suggested the Project of putting the old Penal Laws in execution, by which the Subject was very much harrassed. For this Oppression they were afterwards both called to an Account, and executed. His Son of whom I am now speaking, after some Proficiency in the Common Law, applied himself to the Profession of Arms. And notwithstanding his Father's Misbehaviour, was well received by King *Henry VIII.* It must be said he recommended himself to his Prince with advantage enough. He appeared enterprising and brave, and distinguished himself in the Field upon all occasions. Thus he was raised for his Merit by King *Henry*, who made him Viscount *Lisle*, Knight of the Garter, and Admiral of

England. He had Reach and Capacity no less than Courage, and wanted no Qualification for a good General. He was likewise fortunate in his Expeditions, and came off generally with Success. But after all his Principles were weak, and his Conscience slenderly guarded. Thus his designs being nothing but Interest, he over grasped his Project, and his Ambition undid him.

Sir *John Gates*, and Sir *Thomas Palmer*, were beheaded on the same Scaffold soon after the Duke; both of them it seems repenting of their Attempt to advance the Lady *Jane Grey* to the Crown. The Duke and Sir *John* it is said as they passed to the Place of Execution, reproached each other for the share he had in this Attempt: However they forgave one another at length and died in Charity. As to the Marquis of *Northampton* and the rest of the Prisoners they were all pardoned.

Gates and Palmer beheaded.

The rest pardoned.

Proceedings against DOCTOR THOMAS CRANMER, Archbishop of Canterbury, the Lords AMBROSE DUDLEY and GUILFORD DUDLEY, Sons of the late Duke of Northumberland, and the Lady JANE GREY, Daughter of the Duke of Suffolk, for High Treason, on the 13th of November. Anno 1553.

I MARIE.

Dr Cranmer, Lady Jane Grey, &c.

THE Treason the Archbishop and the rest of the Prisoners were charged with, was their adhering to the Duke of *Northumberland*, and aiding and abetting him in making War upon the Queen; of which they all confessed themselves Guilty: But the Archbishop was pardoned the Treason, and afterwards prosecuted for Heresy, which brought him to the Stake as will appear hereafter. The Lords *Ambrose* and *Guilford Dudley* and the Lady *Jane Grey* were also reprieved for some time. But the two last were executed on the 12th of February 1533-4, on the breaking out of a Rebellion, incited by the Duke of *Suffolk*, the Lady *Jane's* Father, and Sir *Thomas Wyatt*.

Doctor *Fecknam* on the Defeat of this unlucky Enterprize, was sent to the Lady *Jane* to give her notice she must dye; and offered to reconcile her to the Roman Catholick Religion. She received the first part of this Message with great Temper and Unconcernedness: But as to the other, she said she had no Leisure to enter upon Controversy, but should spend the little time she had in preparing for Eternity. *Fecknam* believing she was willing to get more time, went to the Queen and procured a Reprieve for three Days. When he acquainted her with it, he desired she would hear him upon the Subject of Religion. She told him he mistook her Meaning: That she was by

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1553;
1 Marie.
Lady Jane's Behaviour before and at her execution.

1553.
1 Marie.
Some account of the Duke

1553.
1 Marie.
The Charge against them.
Confessed.

G. Dudley, and his Wife the Lady Jane Grey executed.

1553:
1 Marie.

no means fond of living longer; and never intended his moving the Queen to respite her Execution. After this they engaged in a dispute concerning Justification by Faith, the number of the Sacraments, Transubstantiation, Communion in one kind, and the Authority of the Church: Upon all which Points she argued much beyond what could be expected from her Age, and a Lady's Education. Her Husband, the Lord *Guilford* desired to take leave of her before he suffered. This Request was granted; but the Lady *Jane* refused to see him. She was afraid such an Interview might excite an unseasonable Tenderness, and make them leave the World with more regret. Her miscarriage being much more owing to others than herself, was apt to make an impression upon the People. How far this might work upon the Company could not be known. It was therefore thought adviseable to execute her within the *Tower*. She mounted the

Scaffold without the least appearance of Fear, or being disturbed. In her Speech she owned herself Guilty; not that she had grasped at the Crown, but because she had not refused the Offer. And thus her Misfortune might be a warning to Posterity, that an innocent meaning is not a sufficient excuse for disturbing the Publick: And that those who resign to other Peoples Ambition, help to fill up their Schemes, and are drawn into unlawful Practices against their Will, have a great deal to answer for.

She was a handsome Lady, obliging in her Temper, and of no ordinary Genius. Her Inclination lay unusually for Learning. She was scarcely seventeen Years old when she suffered: And yet in King *Edward's* time she had made such a Proficiency in *Greek*, that *Plato* untranslated was a Diversion. She had likewise something of a Talent for Poetry in *English* and *Latin*.

Duke of
Suffolk.

Proceedings against HENRY GREY, Duke of Suffolk, for High Treason, before the Earl of Arundel, Lord High Steward, and other Peers on February 17, 1553-4.
1 MARIE.

1553-4:
1 Marie.
The Charge
against him.

THE Duke had been pardoned by the Queen for attempting to advance his Daughter the Lady *Jane Grey* to the Throne, and was now indicted a second time for levying War against her Majesty; and adhering to Sir *Thomas Wyatt* in order to depose the Queen, and set the Crown on the Head of his said Daughter.

To which the Duke answered: That it was not Treason in a Peer of the Realm as he was, to raise his Power and make Proclamation to avoid Strangers out of the Land (meaning the *Spaniards*.)

It was replied he had done more: He had opposed the Queen's Lieutenant the Earl of *Huntington* at the Head of her Majesty's Forces, which was certainly High Treason: To which the Duke answered, he did not know the Earl was her Lieutenant. He added, that his Brother, the Lord *Thomas Grey* advised him to go down into the Country where

he would be safe among his Tenants: Whereas if he staid in Town, he would be committed to the *Tower* again.

The Peers not satisfied with this trifling Defence, found the Duke Guilty, and Sentence was passed on him as a Traytor.

The Duke being brought to the Place of Execution on *Tower Hill* on the 23d of *February*, confessed he suffered, justly for his disloyalty to the Queen; and desired the People to take warning by his Misfortune, and behave themselves dutifully to the Government. He professed his Belief of the Christian Religion, without any distinction as to Communion: except in saying he rested his Salvation upon no other means than the Mercy of God, through the Passion of our Blessed Saviour. By this he may seem to exclude all Dependence upon the Saints Intercession. And without doubt *Fox* took him

1 Marie.
1553-4He is con-
victed.His Beha-
viour at the
Place of Ex-
ecution.

him in this Sense, for he gives him the Commendation of making a godly end. On the other Hand Dr *Weston*, it seems, did not look on him as an Heretick: For after this Speech, he assisted him in his Devotions, and they repeated the two Psalms, *Miserere mei Deus, & in te Domine speravi*, alternatively, the Duke one Verse and the Doctor another. After which he submitted to the Block, and his Head was severed from his Body a one Blow.

In the mean Time twenty Gibbets were erected in several Parts of the City, on which, upon the fourteenth and fifteenth of February, fifty of the Rebels were hanged. On the 18th of the same Month *Alexander Bret*, who carried over 500 Londoners from the Duke of Norfolk, was sent down to be executed

in Kent, with abundance more, many of which were Persons of Condition and Figure; as Sir *Henry Isley*, Knight, and *Thomas Isley*, his Brother, and *Walter Mantel*, who were executed at *Maidstone*, where *Wyat* at first set up his Standard. Mr *Anthony Knevet*, his Brother *William Knevet*, and another of the *Mantels*, were executed at *Sedenok*, and *Bret* was hang'd in Chains at *Rochester*. And on the twentieth of February four hundred of the Rebels were brought through the City to *Westminster* with Halters about their Necks, and there received the Queen's Pardon.

The Occasion of these Executions will be seen at the End of the Proceedings against Sir Thomas Wyat.

Proceedings against Sir THOMAS WYAT, for High Treason. Anno 1554. 2 MARIE.

THE Prisoner was indicted for High Treason in levying War against the Queen, and particularly on the fourteenth of February in the second Year of her Majesty's Reign, at *Brentford* in the County of *Middlesex*; where he traitorously appeared at the Head of an armed Multitude, with Ensigns display'd and marched towards *London*, with an Intent to depose the Queen and place an U-surper on the Throne.

Wyat being taken in open Rebellion, did not think fit to deny the Charge, but meanly beg'd his Life, offering to make great Discoveries if the Queen would spare him: And he was actually reprieved till the eleventh of April. But not answering the expectations of the Government in his Discoveries, or being thought too dangerous a Man to live, he was then brought to the Scaffold on *Tower-hill*, where he again acknowledg'd his Treasons and appeared very penitent. He asked the Queen Forgiveness, cautioned the People against Defiance of the Government, and making Insurrections upon any pretence. And whereas it had been reported he had charged the Princess *Elizabeth*, and *Courtney Earl of Devonshire*, with holding Correspon-

dence with him, and having a Share in the Revolt, he solemnly declared this was a downright Calumny upon them both, and that neither of them knew any thing of his Rising.

After he had finished his Devotions he submitted to the Block, and his Head was severed from his Body.

The Lord *Thomas Grey* being convicted of the same Treason, was beheaded on the twenty-seventh of April. He was looked upon as the principal Instrument in engaging his Brother the Duke of *Suffolk* in *Wyat's* Rebellion.

And here it may be necessary to give some Account of the Occasion and Progress of this formidable Insurrection, for which so many suffered.

It is admitted that the Match which was about this Time negotiating between the Queen and *Philip Prince of Spain*, gave the Nation a general Disgust. Most People were apprehensive if this succeeded, *England* would sooner or later become a Province of *Spain*: Or at least be governed by the same arbitrary Councils the *Germans* and *Spaniards* were. Which occasioned Conspiracies in almost every County, to prevent the Marriage taking Effect. And as a great Majority

1553-4.
1 Marie.

Fifty of his
Accomplice
hang'd.

And Bret:

1553-4.
1 Marie.

The Isleys.

The Knevets
&c.

Wyat.

1554.
2 Marie.

The Charge
against him.

Confessed.

1554.
2 Marie.

He is executed.

Lord Thomas Grey beheaded.

The Occasion of this Rebellion.

1554.

2 Marie.

of the Nation was ready to rise in Arms to prevent their coming under a foreign Yoke, there was very little Caution used to conceal their Intentions: Which gave the Government opportunity of discovering and dispersing the Malecontents, before they could draw their Forces together. Had their Numbers been less and their Plot better concerted, they would have been much more formidable. We find Sir Peter Carew, who was to have been at the Head of the Malecontents in the West, in Danger of being taken up, and forced to fly to France, before he had assembled any of his Friends. And this obliged Sir Thomas Wyatt, who was pitch'd upon to be their General in Kent, to have recourse to Arms, before his Confederates in other Counties were ready to second him: While the Duke of Suffolk, on whom they principally relied, for raising the midland Counties, was forced to abscond, and could contribute nothing towards the intended Insurrection.

Sir Thomas Wyatt in these disadvantageous Circumstances, was the only Chief that took the Field. He marched first to Maidstone, and from thence to Rochester-Bridge, proposing to maintain that Pass till he was reinforced by his Friends. But the Duke of Norfolk being sent against him with two hundred Horse and six hundred of the trained Bands from London: And the Sheriff of Kent at the same time falling upon a Party that were going to join Wyatt, under the Command of Knevet, and defeating them, he began to look upon the Enterprize as desperate. Till some of his Men, pretending to desert over to the Duke of Norfolk, found Means to persuade the Citizens to join the Malecontents; which obliged the Duke to retire with his Horse. This Accident raising Wyatt's Reputation, his Forces soon encreased to six or seven thousand Men, with whom he determined to march directly to London, where he knew he had abundance of Friends.

Wyatt being advanced as far as Dopeford, within three Miles of the City, the Queen sent to him to know his Demands: Which it seems were no less than that she should put herself and the Tower into his Hands. Whereupon the Queen went into the City, and having assembled the Magistrates and principal Citizens, she made a Speech: Wherein she told them, there was no manner of Reason

for their being under any Apprehensions from her Treaty with Philip: She had entered into it by the Advice of her Council, and only for the Advantage of her People. But if they did not esteem it so, she was very well content to remain a Virgin, and should be entirely directed by their Councils. By these and other Artifices she persuaded the governing part of the City to remain firm to her Interests at this critical Juncture. At the same Time she caused the Bridge to be fortified, and placed such Troops there and at the Tower as she could confide in: Without which Precautions the City had infallibly fallen into Wyatt's Hands, the Multitude being generally favourable to his Cause.

Wyatt in the mean Time continued his March to the Borough of Southwark, and finding the Bridge barricaded up, would have passed his Men over the Thames in Boats; but they were all on the other Side. Whereupon he continued his March ten Miles up the River to Kingston Bridge, which having been broken down he repair'd. From thence he advanced towards Westminster, where he arrived on the fifteenth Day of February in the Morning, without being attacked by the Queen's Troops. But in this last Day's March, either for want of Conduct, or depending too much on being join'd by the Citizens, he suffered his Men to divide into several Bodies on their approaching the City of Westminster, which occasioned their being cut off or dispersed one after another by the Queen's Troops. While he himself advancing by Charing Cross to Ludgate, with about 500 Men, and finding the Gate shut, was reduced to the utmost Despair; and surrendered to one of the Heralds, without making the least Effort to break through his Enemies. Whereupon he was set up behind an Officer and carried Prisoner to the Queen's Palace at Westminster, to the infinite Joy of the Court, who but a few Hours before had given all over for lost. And indeed had the Queen left the Town, or had the Malecontents had a better General, Things would probably have taken a different turn. Whereas this unsuccessful Attempt contributed to establish the Queen's Government. She met with no Opposition to any of her Schemes afterwards, but all the World submitted to her without reserve.

Proceedings

Proceedings against Dr JOHN HOOPER, Bishop of Gloucester and JOHN ROGERS Clerk, Vicar of St Sepulchre's, and Prebendary of St Paul's for Heresy: January 1554-5: 2, 3 MARIE.

Bp. Hooper and Rogers,

1554-5.
2, 3 Mar.
The Case.

THE Prisoners Bishop Hooper, Rogers, and several other Protestants, being brought before the Privy Council on the twenty second of January, it was demanded of them if they would be reconciled to the Catholick Church, and receive the Pope as Supreme Head of it. To which Rogers answered, 'He knew no other Head of the Church but Christ, and for the Pope he had no more Authority in England than any other foreign Bishop.' Then it was objected that he had acknowledged King Henry VIII Head of the Church. Rogers answered, 'He never acknowledged him to be such an Head as could forgive Sins, confer the Holy Ghost, or determine any thing contrary to the Word of God; and observed that all the Bishops had for many Years preached against the Pope's Supremacy.' The Lord Chancellor, Bishop Gardiner, replied, 'They were forced to do it by the Cruelties of the Times.' Whereupon Rogers said, 'He hoped they would not with the like Cruelty force them to acknowledge the Pope's Supremacy; for his Part he would never do it.' Bishop Hooper and the rest of the Prisoners gave the like Answers (except one who was released) and were remanded to Prison.

On the twenty eighth of January Bishop Hooper and Mr Rogers were brought before the Bishops of London, Durham, Salisbury, Norwich and Carlisle, who sat in the Church of St Mary Overies.

The Court demanded again, whether they would submit; to which they answered in the Negative. Then they ask'd Rogers what he thought of the Sacrament of the Altar. He answered, 'He did not believe the corporeal Presence, and complained of his being imprison-

ed a Year and half when he had offended against no Law then in being.'

Bishop Hooper and Mr Rogers being brought before the Court again the next Morning, and persisting to reject the Pope's Supremacy, and the Doctrine of Transubstantiation, they were both condemned as obstinate Hereticks.

On the 4th of Feb. 1554-5, Mr Rogers was carried before Edmund Bonner, Bp. of London, and degraded, and from thence immediately to the Place of Execution in Smithfield, not being suffered to see his Wife and Children, of which ten were then living. When he was at the Stake, a Pardon was offered him if he would recant, but he rejected his Pardon on those Terms as he had done several Times before; and in a few Words exhorted the People to continue steadfast in the Doctrine he had taught them; and for which he had not only patiently suffered all the bitterness and cruelty that had been exercised on him, but did now most gladly resign up his Life, and give his Flesh to the consuming Fire, for a Testimony to it. Then he repeated the 51st Psalm, and fitted himself for the Stake, whereupon the Fire was kindled, and his Body was soon reduced to Ashes. This was the first Martyr that suffered in Queen Mary's Reign.

Bishop Hooper being degraded, he was sent down to Gloucester, his late See, to be executed: He was allowed to live but one Day after he was brought down, which he spent in Fasting and Prayer: And on the 9th of February 1554-5; was brought to the Place of Execution, where being denied Liberty to speak to the People, he repeated his Belief in his Prayer. The Queen's Pardon being again shewn, he desired them to take it away, he would not accept it on the terms it was offered: And then prayed earnestly

1554-5.
2, 3 Mar.

Both convicted of Heresy.

Mr Rogers's Behaviour at his Execution.

The first Martyr in Queen Mary's Reign.

Bishop Hooper's Execution.

1554-5.
2, 3 Marie.

earnestly for Strength from God, to endure his Torments patiently; and undressed himself and embraced the Reeds. When he was tied to the Stake with Iron Chains, he desired them to spare their Pains, for he was confident he should not trouble them. The Fire was put to him, but the Wood being green burnt ill, and the Wind blew away the Flame of the Reeds: He prayed oft, *O Jesus thou Son David, have Mercy on me, and Receive my Soul*: And called to the People, for the Love of God, to bring him more Fire, for the Fire was burning his neither Parts, but did not reach his Vitals. The Fire was renewed, but the Wind still blew it away from rising up to stifle him, so that he was long in the Torment. The last Words he was heard to say, were, *Lord Jesus receive my Spirit*. One of his Hands dropped off before he died, with the other he continued to knock on his Breast some time after, and was in all near three Quarters of an Hour burning.

The execution of Laurence Saunders.

Laurence Saunders Clerk, Minister of Church Langton in Leicestershire, was about the same time condemned as an Heretick, and delivered over to the Secular Power, for maintaining the like Protestant Doctrines. He was sent down from London to Coventry, where he was burnt on the 8th of February. When he was brought to the Stake, a Pardon was offered him if he would renounce his Heresies, whereupon he said he held no Heresies, but the blessed Gospel of Christ; and that he would never recant. And embracing the Stake, he said, *Welcome the Cross of Christ. Welcome everlasting Happiness*. And the Fire being kindled he was burnt to Ashes.

Doctor Taylor charged with Heresy. His Case.

Doctor Taylor, Minister of Hadley, was the next Protestant that endured the fiery Trial. He had refused to let some Priests say Mass in his Church, whereupon being brought before the Lord Bishop of Winchester, then Lord Chancellor, the Bishop saluted him with Terms of Traytor, Villain, Heretick, and Knave. He answered, he was none of these, and

put Gardiner in mind of the Oaths he had sworn, both to King Henry, and King Edward. Gardiner said, an unlawful Oath was not to be kept; and charged him for hindring Mass to be said at his Church. He said, he was by Law Parson of Hadley, and no Man had a right to come thither, and defile his Church and People with Idolatry. After some Discourse on that Head, he was sent to the King's Bench Prison; and being carried before the Council on the 22d of January, he refused to turn. After that he was condemned and degraded; and it was resolved to send him to Hadley, to be burnt there. All the way he expressed great Chearfulness. When he was brought to the Stake, he said to the People, he had taught them nothing but God's Holy Word, and was now to Seal it with his Blood. But one of the Guards struck him over the Head, and made him give over speaking. Then he went to his Prayers, and so to the Stake, where he was put in a Pitch Barrel. As the Faggots were laying about him, one flung a Faggot at his Head, which broke it and fetched a great deal of Blood: But all he said was, *Oh Friend, I have Harm enough, what needed that?* He repeated the 51st Psalm in English; at which one of the Guards struck him over the Mouth, and bid him speak Latin. He continued his Ejaculations to God till the Fire was kindled; and one of the Guards cut him in the Head with his Halbert, so that his Brains fell out. This was done on the 9th of February.

1554-5.
2, 3 Marie.

Taylor's Behaviour at his Execution

In the Month of March, seven or eight more were burnt for Heresy, as the denying the Pope's Supremacy and disbelieving Transubstantiation were called. And in all these Processes, Bishop Burnet observes, no Witnesses were produced against the Prisoners, but Articles were exhibited to them in the Bishops Courts: And upon their Answers to them, they were adjudged Hereticks, and committed to the Secular Power to be burnt, unless they recanted.

The manner of Proceeding against them.

Proceedings

Proceedings against Doctor ROBERT FARRAR, Bishop of St David's, for Heresy, before Doctor HENRY MORGAN, his pretended Successor in that See. Anno 1554-5. 2, 3 MARIE.

1554-5.
2, 3 Mar.
His Examination.

Convicted.

And executed.

BISHOP Farrar, was required by the said Morgan. 1. To declare against the Marriage of Priests. 2. To grant the Corporeal Presence in the Sacrament. 3. To acknowledge that the Mass was a Propitiatory Sacrifice for quick and dead; with several other Popish Articles. Which the Prisoner refusing to subscribe, he was condemned by Morgan for an obstinate Heretick. Whereupon he appealed to Cardinal Pole the Pope's Legate; but his Appeal was not allowed: And he was delivered over to the Sheriff of Carmarthen to be burnt. Which Sentence was executed upon him, on the 30th of March 1555.

The following Summer several more

were burnt for Heresy (that is for denying Transubstantiation, and other Popish Doctrines) in Essex, where the Nobility and Gentry were ordered to attend at such Executions. And Letters of Thanks were sent by the Court to such Gentlemen as expressed the most barbarous Zeal on these Occasions against their Fellow Subjects. Bishop Burnet informs us, that he met with many Entries in the Council Books of Letters, written to several Counties, to the Nobility and Gentry to assist at these Executions: And such as made Excuses were looked upon with an evil Eye ever after, the Government being jealous of them.

1554-5:
2, 3 Mar.
Several more executed for Heresy.

The Nobility and Gentry required to attend these Executions.

Proceedings against WILLIAM FETHERSTONE, alias CON-STABLE, for High Treason. Anno 1555. 3 MARIE.

1555.
3 Marie.
The Charge against him.

Convicted and executed.

THE Prisoner William Fetherstone, a Miller's Son of eighteen Years of Age, was charged with personating King Edward VI; and being brought before the Council did not deny it; but accused several innocent People of advising him to it; and to avoid Punishment counterfeited Madness. However he was ordered to be whipped through the Streets of London, and sent down to Yorkshire his Native Country.

The next Year he gave out that King Edward was alive, and that he had conversed with him. Whereupon he was sent for up to London again, arraigned and convicted of High Treason, and executed as a Traytor at Tyburn, on the 10th of March 1555-6.

The following Summer 1556, a Conspiracy against the Queen was discovered.

The principal Conspirators were Sir Anthony Kingston, Richard Veal, Henry Peckham, Daniel Udal, Tbrockmorton, Stanton, Rossie, and Bedell. Their first design was to seize the Treasure in the Queen's Exchequer; where it is said there was then lodged fifty thousand Pounds of Spanish Money. But they were discovered by Wight one of their Accomplices, and all of them convicted and executed as Traytors at Tyburn, except Sir Anthony Kingston, who died as they were bringing him up to London.

In the following Month of July, another Plot was discovered against the Government in Norfolk, where one Claybeard, a Schoolmaster, and three Brothers of the Name of Lincoln, had concerted an Insurrection. And Claybeard read a

Y y

Seditious

1555.
3 Marie.
Kingston, and others convicted of High Treason in conspiring to rob the Exchequer.

Executed.

Claybeard, &c.

1555.

3 Marie.

Seditious Declaration in the Parish Church of *Yaxley*, expecting to have been immediately joined by his Accomplices; but was disappointed, and forced to fly for it.

This Plot extended itself as far as *Suffolk* and *Essex*, where the Conspirators had dispersed Treasonable Letters and Libells, finding many People in those Counties Well-wishers to the Reformation; and who had been hardly used by the Queen, from whom they deserved better. *Claybeard* pretended he was

Earl of *Devon*, (that Nobleman being then abroad in his Travels) and gave out that the Princess *Elizabeth* favoured their designs, which the Queen her Sister reproached her with. But she wrote a Letter to the Queen, wherein she expressed her Detestation of the Practises of the *Malecontents*. And the Conspiracy was attended with no other ill Consequences, than the Execution of the principal Rebels, viz. *Claybeard* and the three *Lincolns*.

1555.

3 Marie.

Convicted
and executed

Bradford.

Proceedings against JOHN BRADFORD, Clerk, Prebendary of St Paul's, for Herefy. Anno 1555. 3 MARIE.

1555.

3 Marie.

His Case.

THESE Proceedings are thus summed up by Bishop Burnet, (being taken from Foxe's larger Narrative).

He had been condemned among the first, but was not burnt till July 1555. He had been a Prebendary of *St Paul's*, and a celebrated Preacher, in the end of King *Edward's* Days. He had preserved *Bourn* in the Tumult at *Paul's Cross*. And that Afternoon preaching at *Bow-Church*, he severely reproved the People for the disorder at *St Paul's*; but three Days after was put in Prison, being removed from one Prison to another near three Years. Wherever he came he gained so much on the Keepers, that they suffered him to preach and give the Sacrament to his Fellow Prisoners. He was one of those that were carried before the Council on the 22d of January, where *Bonner* accused him of the Tumult at *Paul's*: Though all he pretended to prove it by was, that his way of speaking to the People shewed, he thought he had some Authority over them; and was a Presumption that he had set on the Sedition. *Bradford* appealed to God, that saw his Innocency, and how unworthily he was requited for saving his Enemies, who rendered him Evil for Good. At last refusing to conform himself to the Laws, he was condemned with the rest on the 31st of January: Where that Rescue was again laid to his Charge, together with many Letters he had written all over *England*: Which (as the Earl of

Pronounced
an Heretick.

Darby informed the Parliament) had done more hurt than he could have done, if he had been at liberty to preach. He said, since he understood, that they acted by a Commission which was derived from the Pope, he could not answer them; having sworn never to acknowledge that Authority. What he had done at *St Paul's*, was at *Bourn's* earnest desire, who prayed him for the Passion of Christ, to speak to the People. Upon which he stepped up to the Pulpit, and had almost been killed with the Dagger that was thrown at *Bourn*; for it touched his Sleeve. But in the Points of Religion, he professed his Faith so constantly, that for that Cause he was condemned. Yet the saving of *Bourn* was so publickly known, that it was thought undecent to proceed against him so quick as they did with the rest. So both *Heath* Archbishop of *York*, and *Day* Bishop of *Chichester*, *Weston*, *Harpfield*, and the King's Confessor, and *Alphonfus à Castro*, went to see him, and endeavoured to gain him; but all to no purpose. It look'd very ill in *Bourn*, says Bishop Burnet, that he never interposed for *Bradford*, nor came once to visit him. And as when *Bradford* was before the Council, *Bourn's* Brother the Secretary was very sharp upon him, so when he was brought to his Trial, *Bourn* himself then Bishop of *Bath* and *Wells* being present, did not open his Mouth for him; though he appealed to him, as to the Business of

1555.

3 Marie.

Their
putation
with a C
mittee
Convoca

1555.
Marie.
John Lease
convicted of
treason.

of the Tumult. With Bradford one John Lease, an Apprentice of 19 Years old, was led out to be burnt, who was also condemned upon his Answers to the Articles exhibited to him. When they came to the Stake they both fell down and prayed. Then Bradford took a Faggot in his hands and kissed it, and so likewise kissed the Stake, expressing thereby the Joy he had in his Sufferings; And cried, O England,

Repent, Repent, Beware of Idolatry and false Antichrists. But the Sheriff hindring him to speak any more, he embraced his Fellow-sufferer, and prayed him to be of good Comfort, for they should sup with Christ that Night. His last Words were, Strait is the Way and narrow is the Gate that leadeth into eternal Life, and few there be that find it.

1555:
3 Marie.
And execu-
ted with
Bradford.

Proceedings against Dr THOMAS CRANMER, Archbishop of Canterbury, Dr NICHOLAS RIDLEY, Bishop of London, and Dr HUGH LATIMER, Bishop of Worcester, in the Years 1554 and 1556. 2, 4 MARIE:

Archbishop
Cranmer, and
Bishop Rid-
ley and Lati-
mer.

1554, 1556.
2, 4 Mar.
Their re-
spective Ca-

THESE three protestant Fathers were apprehended and imprisoned on the Accession of Queen Mary. The Archbishop was convicted of High Treason and Sentence pronounced on him as a Traytor for adhering to the Lady Jane Grey, and endeavouring to depose the Queen. But he was pardoned for that Offence as hath been related already. The other two Bishops Ridley and Latimer were deprived of their Bishopricks, and all of them kept in Prison till the Month of April, 1554, when they were sent down to Oxford to dispute with a Committee of the Convocation before that University on the principal Points in debate between the Protestants and Papists; Which Dispute may be seen at large in Fox, but I shall content myself with the following Abstract of it taken from Bishop Burnet's History of the Reformation, viz.

Their Dis-
putation
with a Com-
mittee of
Convocation

They who were sent from the Convocation, came to Oxford on the fourteenth of April, being Friday. They sent for those Bishops on Saturday, and assigned them Monday, Tuesday and Wednesday, every one of them his Day, for the defending of their Doctrine; but ordered them to be kept apart; and that all Books and Notes should be taken from them. Three Questions were to be disputed.

I. Whether the natural Body of Christ was really in the Sacrament.

II. Whether any other Substance did remain, but the Body and Blood of Christ.

1554, 1556:
2 & Marie.

III. Whether in the Mass there was a propitiatory Sacrifice for the Sins of the Dead and Living.

When Cranmer was first brought before them, the Prolocutor made an Exhortation to him to return to the Unity of the Church. To which he answered with such Gravity and Modesty, that many were observed to weep. He said he was as much for Unity as any, but it must be an Unity in Christ, and according to the Truth. The Articles being shewed him, he asked, whether by the Body of Christ they meant an organical Body, They answering, it was the Body that was born of the Virgin. Then he said, he would maintain the Negative of these Questions.

On the sixteenth, when the Dispute with Cranmer was to begin, Weston that was Prolocutor, made a Stumble in the beginning of his Speech. For he said, Ye are this Day assembled to confound the detestable Heresy of the Verity of the Body of Christ in the Sacrament. This Mistake set the whole Assembly a laughing. But he recovered himself and went on: He said, it was not lawful to call these Things in doubt, since Christ had so expressly affirmed them, that to doubt of them, was to deny the Truth and Power of God. Then Chedsey urged Cran-

1554, 1556. *Cranmer* with the Words, *This is my Body*: To which he answered, that the Sacrament was effectually Christ's Body, as broken on the Cross, that is, his Passion effectually applied. *Weston* and others urged him much, that Christ making his Testament, must be supposed to speak Truth, and plain Truth; and they ran out largely on that. *Cranmer* answered, that Figurative Speeches are true, and when the Figures are clearly understood, they are then plain likewise. Many of *St Chrysostom's* high Expressions about the Sacrament were also cited, which *Cranmer* said, were to be understood of the spiritual Presence received by Faith. Upon this much time was spent, the Prolocutor carrying himself very indecently towards him; calling him an unlearned, unskilful and impudent Man. There were also many in the Assembly that often hissed him down, so that he could not be heard at all; which he seemed to take no notice of, but went on as often as the Noise ceased. Then they cited *Tertullian's* Words. 'The Flesh is fed by the Body and Blood of Christ, that so the Soul may be nourished by God.' But he turned this against them, and said, hereby it was plain, the Body as well as the Soul received Food in the Sacrament; therefore the Substance of Bread and Wine must remain, since the Body could not be fed by that spiritual Presence of the Body of Christ. *Tresham* put this Argument upon him: Christ said, as he lived by the Father, so they that eat his Flesh should live by him, but he is by his Substance united to his Father, therefore Christians must be united to his Substance. To this *Cranmer* answered, that the Similitude did not import an Equality; but a Likeness of some Sort; Christ is essentially united to his Father, but Believers are united to him by Grace, and that in Baptism as well as in the Eucharist. Then they talked long of some Words of *St Hilary's*, *Ambrose's*, and *Justin's*. Then they charged him, as having mistranslated some of the passages of the Fathers in his Book, from which he vindicated himself, saying, that he had all his Life, in all manner of things, hated Falshood.

After the Dispute had lasted from the Morning till two of the Clock, it was broke up; and there was no small Triumph, as if *Cranmer* had been confounded in the Opinion of all the Hearers;

which they had expressed, by their Laughter and Hissing. There were Notaries that took every thing that was said, from whose Books *Fox* did afterwards print the Account of it, that is in his great Volume.

The next Day *Ridley* was brought out, and *Smith* was now very zealous to redeem the Prejudice, which his former Compliance was like to be to him in his Preferment: So he undertook to dispute this Day. *Ridley* began with a Protestation, declaring, That whereas he had been formerly of another Mind from what he was then to maintain, he had changed upon no worldly Consideration; but merely for the Love of the Truth, which he had gathered out of the Word of God, and the holy Fathers; But because it was God's Cause he was then to maintain, he protested that he might have leave afterwards to add, or to change, as upon better Consideration he should see Cause for it. He also desired he might have leave to speak his Mind without Interruption; which though it was promised him, yet he was often stopp'd, as he went on explaining his Doctrine. He argued against the corporeal Presence, as being contrary to the Scriptures that spoke of Christ's leaving the World: As being against the Article of his sitting at the right Hand of God: And against the Nature of the Sacrament, which is a Remembrance. He shewed, that by it the Wicked receive Christ no less than the Godly: That it is against Nature to swallow down a living Man: That this Doctrine introduced many extraordinary Miracles, without any Necessity; and must have given Advantage to the Hereticks, who denied Christ had a real Body, or a true human Nature: And that it was contrary to the Doctrine of the Fathers. He acknowledged that it was truly the Communion of his Body, that is, of Christ's Death, and of the heavenly Life given by him: And did in a strong nervous Discourse, as any I ever saw on that Subject, says Bishop *Burnet*, gather together the Church Arguments for his Opinion.

Smith argued, That notwithstanding Christ's being at the Right Hand of God, he was seen on Earth. *Ridley* said, he did not deny but he might come and appear on Earth, but that was for a Moment, to convince some and comfort others, as *St Paul* and *St Stephen*: Tho' he said, it might be they saw him in Heaven;

1555-6.
4 Marie.

Heaven; but he could not be at the same time, both in Heaven and on Earth. They returned oft to *St Chrysostom's* Words, and pressed him with some of *St Bernard's*. But as he answered the Sayings of the former, that they were Rhetorical and Figurative; so he excepted against the Judgment of the latter, as living in an Age when their Opinion was generally received. The Dispute held till *Weston* grew weary, and stopt all, saying, You see the obstinate vain-glorious, crafty, and inconsistent Mind of this Man: But you see also the force of Truth cannot be shaken; Therefore cry out with me, *Truth has the Victory*. This being echoed again by the Audience, they went away with great Triumph. And now they reckoned the hardest part of their Work was over since *Latimer* only remained.

Latimer being next Day brought forth, told them, he had not used *Latin* much these twenty Years, and was not able to dispute; But he would declare his Faith, and then they might do as they pleased. He declared that he thought the Presence of Christ in the Sacrament to be only Spiritual; since it is that by which we obtain eternal Life, which flows only from Christ's abiding in us by Faith: Therefore it is not a bare naked sign: But for the Corporeal Presence he looked on it as the Root of all the other Errors in their Church. He enlarged much against the Sacrifice of the Mass; And lamented that they had changed the Communion into a private Mass: That they had taken the Cup away from the People; And instead of Service in a known Tongue, were bringing the Nation to a Worship that they did not understand. He perceived they laughed at him: But he told them, they were to consider his great Age, and to think what they might be when they came to it. They pressed him much to answer their Arguments. He said his Memory was gone, but his Faith was grounded on the Word of God; He was fully convinced by the Book which *Dr Cranmer* had written on that Subject.

In this whole Disputation, as *Ridley* wrote of it, there was great Disorder, perpetual Shoutings, Tauntings, and Reproaches: so that it looked liker a Stage, than a School of Divines; and the Noise and Confusions, with which he had been much offended when he was in the *Sorbonne*, were modest compared to this.

On the 28th of *April* they were again

brought to *St Maries*, where *Weston* told them they were overcome in the Disputation, therefore he required them to subscribe with the rest. *Cranmer* objected against their way of disputing. He said, they would not hear any one argue against their Errors, or defend the Truth: That oftentimes four or five of them were speaking at once, so that it was impossible for any to hear, or to answer all these. In Conclusion, he refused to subscribe. *Ridley* and *Latimer* made the same Answers. So they were all judged Hereticks, and the Fautors of Heresy. Then they were asked, whether they intended to Turn: They answered, that they would not Turn; so they were judged obstinate Hereticks, and declared to be no more Members of the Church.

Upon which *Cranmer* answered: 'From this your Judgment and Sentence, I appeal to the just Judgment of Almighty God, trusting to be present with him in Heaven; for whose Presence on the Altar, I am thus condemned.'

Ridley answered: 'Although I be not of your Company, yet I doubt not but my Name is written in another Place, whither this Sentence will send us sooner than we should by the course of Nature have come.'

Latimer answered: 'I thank God most heartily that he hath prolonged my Life to this end, that I may in this case glorify God with this kind of Death.'

To them *Weston* answered: 'If you go to Heaven with this Faith, then I will never come thither, as I am thus persuaded.'

The three Bishops were afterwards detained in Prison till the Month of *October*, 1555. When the Bishops of *Lincoln*, *Gloucester*, and *Bristol* were sent down to *Oxford* by a special Commission from Cardinal *Pole* the Pope's Legate, to try *Ridley* and *Latimer* for Heresy.

Ridley being brought before these Bishops, and understanding they proceeded in the Name of the Pope, and by the Authority of the Cardinal, he put on his Cap, having stood bareheaded before that; because he would express no sign of Reverence to those who acted by such a Commission. He said he paid great Respect to the Cardinal, as descended from the Royal Family, and a Man endowed with such Learning and Virtue,

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that

1555-6.
4 Marie.

All three declared obstinate Hereticks by the Committee of Convocation.

Ridley and *Latimer* tried by a Commission from Cardinal *Pole*, the Pope's Legate.

1555-6.
4 Mary.

that therefore he honoured and revered him: But for his Legantine Authority, from the Bishop of Rome, he utterly renounced it; and therefore would shew no Reverence to that Character. And so putting off his Cap as he spoke of him on other respects, he put it on again when he named his being Legate; and being required to put it off, refused to do it on that Account; but one of the Beadles did it for him. After that the Bishop of Lincoln made him a long Exhortation to recant, and acknowledge the See of Rome; since Christ had built his Church on St Peter; and the Fathers had all acknowledged the Preheminence of that See; and himself had been once of that opinion. To which he answered: 'It was upon the Faith which St Peter' confessed, that Christ had founded his Church.' He acknowledged the Bishops of Rome had been held in great Esteem, both for the Dignity of the City, and the worthiness of the Bishops that had set in it; but they were only esteemed Patriarchs of the West: And the Church had not then thought of that Power, to which they had since advanced themselves. He confessed he was once of their Mind, but it was as St Paul had been a Persecutor: He had seen since such Spots in the Church of Rome, that he could never return to it. Upon this followed much Discourse. In conclusion they objected to him some Articles about those Opinions which he had maintained a Year and a half before that in the Schools, and required him to make Answers to them. He began with a Protestation, that by answering them, he did not acknowledge the Pope's Authority; and then answered them as he had done before. Latimer used the like Protestations and Answers. So they were allowed one night's respite, to consider better, whether they would recant or not: But next Day they appearing and adhering to their Answers, were declared obstinate Hereticks, and ordered to be degraded, and so delivered over to the secular Power.

Convicted of
Heresy.

Their Behaviour
before
and at their
Execution.

After that new Attempts were made on Ridley to persuade him to accept of the Queen's Mercy, but all being to no Purpose, the Writ was sent down to burn them. The night before the Execution, Ridley was very joyful; and invited the Mayor and his Wife, in whose House he was kept, to be at his Wedding next

Day: At which when the Mayor's Wife wept, he said he perceived she did not love him. But he told her though his Breakfast would be sharp, he was sure his Supper would be sweet. He was glad to hear that his Sister would come and see him die, and was in such Composure of mind, that they were all amazed at it. Next Morning being the 16th, they were led out to the Place of Execution, which was before Balliol College. They looked up to the Prison to have seen Cranmer. But he was then engaged in dispute with some Friars, so that he was not in his Window: But he looked after them with great tenderness; and kneeling down, prayed earnestly that God would strengthen their Faith and Patience, in that their last but painful Passage. When they came to the Stake, they embraced one another with great affection; Ridley saying to Latimer, *Be of good Heart Brother, for God will either assuage the fury of the Flame, or enable us to abide it.* Doctor Smith was appointed to preach, and took his Text from these Words: *If I give my Body to be burnt, and have no Charity, it profiteth nothing.* He compared their dying for Heresy to Judas's hanging himself. And warned the People to beware of them, with as much bitterness as he could express. The best of it was, the Sermon lasted not above a Quarter of an Hour. When he had done Ridley was going to answer him; and the Lord Williams, that was appointed by the Queen to see the Execution, was enclined to hear him. But the Vice-Chancellor said except he intended to recant, he was not to be suffered to speak. Ridley answered, He would never deny his Lord, nor those Truths of his, of which he was persuaded: God's Will be done in him, He committed himself to God, who would indifferently judge all. Then he addressed himself to the Lord Williams, and said, Nothing troubled him so much, as that he had received Fines of some, who took Leases of him when he was Bishop of London, and these Leases were now voided. He therefore humbly prayed, that the Queen would give order, that those might be made good to the Tenants; or that the Fines might be restored out of his Goods, which he had left in his House, and were of far greater Value than those Fines would amount to; and that some pity might be had of Shipside his Brother in Law, who was

1555-6.
4 Mary.

Archbishop
Cranmer
tried by
Commissioners,
decreed by
Cromwell
Pope's In-
gate, and
the Que

The Ch
against

He is con-
demned.

Degraded

1555-6.

4. Marie.

was turned out of a Place he had put him in ; and had now attended on him with great Care. Then they prayed and fitted themselves for the Stake : *Latimer* saying to *Ridley*, *Be of good Comfort, we shall this Day light such a Candle in England, as I trust by God's Grace shall never be put out.* Then Gunpowder being hanged about their Bodies in great quantities to hasten their Death, the Fire was put too : And *Latimer* was with the first Flame, the Powder taking Fire, put out of pain and died immediately. But *Ridley* had a more lingering torment ; For they threw on the Fire so much Wood that the Flame could not break through it ; so that his Legs were almost consumed before this was observed ; and then one opening the passage to the Flame, it put an end to his Life.

Thus died these two excellent Bishops ; the one for his Piety, Learning, and solid Judgment, the ablest Man of all that advanced the Reformation ; and the other for the plain Simplicity of his Life, esteemed a truly primitive Bishop and Christian.

As to Archbishop *Cranmer*, three Commissioners were sent down to *Oxford*, in the Month of *December* to try him, viz. *Dr Brooks* Bishop of *Gloucester*, assigned by Cardinal *Pole* the Pope's Legate, and *Martin* and *Scory*, two Doctors of the Civil Law, assigned by the King and Queen. For though the Convocation had declared *Cranmer* an Heretick formerly, he was not yet either deprived or condemned to die. * The Charge against him was, That he had been twice married ; That he had published several heretical Books ; deserted the Communion of the Church of *Rome* ; and denied the real Presence of Christ in the Sacrament of the Altar. All which he confessed. Whereupon he was for Form Sake, cited to appear before the Pope within eighty Days. And his Non-appearance was made one Article of his Condemnation ; which he observed was very unjust, as he was all the while detained a Prisoner.

On the 14th of *February* the following Year, Bishop *Bonner*, and Bishop *Thirlby* went down to *Oxford* to degrade him. He was clothed in Robes of Canvas, and stripped of them Piece by Piece ; *Bonner* doing his Office with his usual Insolence, while *Thirlby* it is said wept at the sight of it.

They did not however yet proceed to execute him ; but all Means were tried to prevail on him to Recant. First Hopes were given him of Life, if he would make some small Concessions. Then they required him to confess something more ; till at length they had gotten four Confessions from him, one after another. But these would not satisfy them. They brought him a Paper in which they made him renounce his Principles and approve all the Doctrines of the Church of *Rome* ; which after he had signed, they intended he should have read over in *St Mary's Church*, on the Day he was to suffer. For they never designed to spare him, notwithstanding they had so long flattered him with the hopes of Life. The Person who had divorced the Queen's Mother, and been the principal Instrument in abolishing Popery, could never be forgiven.

It is generally said that they gave him no notice of his Death, till the very Day he suffered being the 21st of *March* ; but brought him to *St Mary's* that Day under a Pretence of reading his Recantation before the University : And that the Preacher in his Sermon, first acquainted him he was to die, exhorting him to persist in the Confession of Faith he had lately made. But whether *Cranmer* was acquainted with their design or not, certain it is he took that Opportunity in the Face of the University, to express his Abhorrence of the Popish Tenets ; to bewail his Weakness in signing the Papers they brought him ; and declared, That as his Right Hand had offended, that should first suffer in the Flames. And accordingly when the Fire was kindled, he stretched out his right Hand, and saw it first consumed, crying out several times, *That unworthy Hand.* It was observed also, that his Heart was found entire after his Body was consumed to Ashes ; (which is a Fact that requires to be well attested). But whether we may rely on this circumstance or not, it was certainly a very melancholy Spectacle ; as a certain Historian observes, to see the Primate of *England*, who had in two Reigns so great a share in his Sovereign's Favour, venerable for his Age, as well as for his Piety and Learning, and the admirable Endowments of his Mind, dressed in a ridiculous Habit, tied to a Stake, ready to undergo a painful Death ; and

1555-6:

4. Marie.

He signs a Recantation.

Archbishop Cranmer tried by Commissioners, deputed by Cardinal Pole, the Pope's Legate, and the Queen.

The Charge against him.

He is condemned.

Degraded.

He recovers himself, and maintains his former Opinions.

* The Convocation could only censure : They had no Authority to condemn any Man.

1553-6:

4 Marie:

He is burnt
at Oxford.A great ma-
ny more
Protestants
burnt about
the same
time;Eleven Men
and two Wo-
men burnt
in one Fire.

all the while exposed to the scurrilous Jest
and Curfes of a crowd of Bigots, who
not only rejoiced to see him thus afflicted
in this World, but consigned him to e-
ternal Torments in the next, prohibiting
all Men even to pray for him. What
Mortal could bear up under these terrible
Circumstances? What are all the other
trivial evils in Life, compared with such
a Scene of Horror! But all these Terrors
did not amaze or confound the holy Mar-
tyr. He was only concerned at the Weak-
ness he had shewn. And as he held one
Hand in the Fire till it was consumed, he
beat his Breast with the other, as a mark
of his Repentance; and at length expired,
crying *Lord Jesus receive my Spirit.*

About the same time the Archbishop
suffered, five Men and two Women were
burnt at one Stake in *Smithfield*; and one
Man and four Women at *Canterbury*.
In *April* six *Essex* Men were burnt in
Smithfield; and even the Aged, the
Blind, and the Lame, were condemned
to the Flames by *Bonner*, and actually ex-
ecuted. In *June* *Bonner* caused eleven Men
and two Women to be burnt in the same
Fire at *Stratford*, near *London*. And it is re-
lated, that a Woman and her two Daugh-
ters being burnt at the same Stake in the
Island of *Jersey*, one of them was deli-
vered in the Flames. When some of the
standers by endeavouring to save the In-
fant, an Officer threw it back into the
Fire. And in this manner were eighty
seven, and according to others ninety four
Protestants destroyed this year, besides
those who perished in noisome Prisons,
where they were frequently put to the
Torture. It is reported of *Bonner*, that he
would himself burn the Prisoners Hands

and Fingers in the Candle, when other
Arguments would not prevail to induce
them to Recant.

The unhappy Queen all this while
imagined she was doing the most accepta-
ble Service to Heaven; And that all these
Cruelties were indeed Acts of Mercy,
being intended to preserve the rest of her
Subjects from everlasting Burnings.

In *Strype's Memorials* we meet with
the following Account of the number
of Martyrs in this Reign, *Viz.*

Anno 1555, according to *Cooper*, there
were burnt at sundry Places and Times
Eighty, besides those who died in Prison.

Anno 1556, burnt Eighty six, whereof
many were Women and Maidens.

Anno 1557, burnt Sixty seven, of
which about twenty were Women.

Anno 1558 the Number not mentio-
ned; only it is expressed to be a great
many in divers places.

According to *Bishop Burnet* in his His-
tory of the Reformation, the Numbers
consumed by Fire under those Years,
stood thus:

Anno 1555, burnt Seventy two. *An-
no 1556*, burnt Ninety four; *Anno 1557*,
burnt Seventy nine; *Anno 1558*, burnt
Thirty nine; in all Two hundred and
eighty four.

Lord Burleigh in his Treatise called the
Execution of Justice, written in the
Year 1583, reckons the Numbers of
those who died for Religion in this Reign,
by Tortures, Famine, Fire, and Imprisonment,
to be near Four hundred; and
in a Paper among his Manuscripts,
makes those who were burnt amount to
Two hundred and ninety. See *Strype's
Memorials*. Vol. III. p. 473.

1553-6:

4 Marie:

The Number
of Martyrs
which suffe-
red in this
Reign.

Proceedings

Proceedings against THOMAS STAFFORD, second Son of the Lord STAFFORD, and others for High Treason. Anno 1557. 5 MARIE.

THE Treason *Stafford* was charged with, was his raising Forces in France, consisting of French and English; invading the Kingdom, and taking Scarborough Castle in Yorkshire. It was farther charged, that he had published a Declaration, setting forth that the Queen had forfeited her Crown by submitting her Kingdom to the Government of the Spaniards; and that he had taken upon himself the Title of the Protector of the Realm.

What Defence *Stafford* made to this Charge does not appear: But from *Strype's* Memorials it is evident that he and Thirty four of his Accomplices were convicted of High Treason: *Stafford* himself was beheaded on Tower Hill on the 28th of May, 1557, and the rest of the Prisoners were executed as Traytors at Tyburn; and their Quarters set upon the principal Gates of the City.

This Invasion was encouraged by the French King, who gave *Stafford* leave to raise Forces in his Territories, and furnished him with Shipping; and at the same time incited the Scots to invade the Kingdom on that side. But the Scots disappointing him, *Stafford* and the few Troops he carried with him were easily defeated and made Prisoners.

About the same time *Charles* Lord *Stourton* was executed at Salisbury, as were four of his Servants in the adjacent Country, for the Murder of two of his Neighbours, *Hargill* and his Son; whom he assaulted in their own Grounds, and overpowering them with a great number of his Servants, cut their Throats and buried them fifteen Foot deep, in order to conceal the Outrage. But it was discovered, and his Lordship hanged as a common Murderer, only he had the Favour of a silken Halter.

Proceedings against THOMAS Lord WENTWORTH for Cowardzie. Anno 1558. 1 ELIZ.

THE Indictment against this Nobleman was found in the Reign of Queen Mary; which charged him with surrendering the Town of Calais to the French, before it was reduced to extremity. For this he was tried in the first Year of Queen Elizabeth before his Peers at Westminster, the Marquis of Northampton sitting as Lord High Steward.

His Lordship in his Defence made it appear that the Fortifications were so much out of Repair; the Garrison so weak; and the Enemies Armies so powerful; that the Place could not be defended

longer than he held out: With the Truth of which Facts their Lordships were so well satisfied, that the Lord *Wentworth* was acquitted without any manner of Censure. And indeed our Historians in general seem to charge the Loss of Calais on the Indolence of the Ministry, who made no Provision for its Defence, rather than to the Misconduct of the Governour. Sir *John Hayward* gives the following Account of the loss of Calais.

He says, the French King in order to repair the Loss he sustained at St Quintin (where he had been lately defeated by the

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1557:
5 Marie

Lord Stourton executed for Murder.

Lord Wentworth.

1558:
1 Eliz:
Acquitted,

The occasion of the loss of Calais.

1557:
5 Marie.
The Charge against him.

Convicted and executed with his accomplices

1558:
1 Eliz.
The Charge against him.

His Defence.

1558.

1 Eliz.

the united Forces of *Spain* and *England*) resolved to make an Attempt upon *Calais*, which the Governour of *Bologn* persuaded him was not so strong as had been represented: In this he was confirmed also by *Strossy* another *French* Officer, who had view'd the Place in Disguise.

King *Philip* who was not ignorant of this, had advised the Queen to take particular care of *Calais*, and offered his Assistance for its Security. But because it lay commodious for his adjacent *Spanish* Netherlands, the Council unhappily entertained a Jealousy that he had a design upon the Town himself, and thereupon refus'd the Forces he offered them.

In the mean time the Duke of *Guise* march'd suddenly thither with a great Army, and sat down before it on *New-years-day* over-against that part which is called *Sandgate*. Then dividing his Army into two Bodies, with one he attacks the *Rysbank*, and with the other *Newnambridge* at the same time; that by taking these he might cut off all Succour from *England* by Sea or by Land, from the Netherlands. The Garrison being surprized and sensible of their own Weakness, presently surrendered both Places. Then the Besiegers began to batter the Town between the Watergate and the Prison, to make a Diversion. For they designed the Attack in another Place. When they had continued this for some time, and the *English* had no Apprehension of the Castle, the Enemy on a sudden raised a Battery of fifteen Pieces of Cannon; and fired on it with such Violence, that the Noise was heard all that Day to *Antwerp*, distant above one hundred *English* Miles. Towards night they had made a considerable Breach. Yet

there was no approaching the Walls because of a deep Ditch full of Water, in which the besieged placed their greatest Security. The Enemy therefore with extraordinary diligence dug a Trench from thence to the Sea; by which when the Tide went out, they drained it. So that they marched through without Opposition, the Water reaching but Navel high. They found the Castle almost Defenceless, and possessed themselves of it immediately: And had taken the Town too, if Sir *Anthony Ager* with a small Force had not stopped their Progress; in which Conflict that valiant Knight was killed. The Lord *Wentworth* Governour of the City, seeing it was impossible to maintain it, capitulated; and after many Conferences surrendered upon these Articles, viz. That the Garrison and the Inhabitants should depart without carrying any thing away; and that the Lord *Wentworth* and fifty others, whom the Duke of *Guise* should choose, should remain Prisoners. Thus was this important Place taken, which had remained in the Possession of the *English* above two hundred Years.

Seven Days after the Duke of *Guise* marched to *Guines*, and took it without any difficulty. But the Castle being defended by the Lord *Grey* was not carried so easily. However that was taken at last, as likewise *Hames Castle*. And since that time neither in *France* which our Kings once possessed almost entire, and of which *Henry VI* had been crowned King at *Paris*, in the Year 1431, nor in *Normandy* or *Aquitain*, the ancient Patrimony of the Kings of *England*, do our Princes retain any thing except the Isles of *Jersey* and *Guernsey*, which have continued firm to us ever since the Conquest.

1558.

1 Eliz.

Proceedings

Proceedings against THOMAS PERCY, Earl of Northumberland, CHARLES —, Earl of Westmoreland, and others, for High Treason. Anno 1569.
12 ELIZ:

Earls of Northumberland and Westmoreland.

1569.
12 Eliz.
The Charge against them.

Attainted by Parliament with their Accessories:

Sixty six Constables executed.

The Earl of Northumberland and many Gentlemen his Adherents executed.

The occasion of this Rebellion.

THE Earls of Northumberland and Westmoreland were charged with traterously assembling a Body of Forces; breaking out into actual Rebellion; besieging and taking of *Bernard Castle*, in the North of England; and afterwards retreating into Scotland, on the approach of the Queen's Army: Whereupon they were outlawed and attainted as Traytors, together with their principal Adherents: viz. *Anne Countess of Northumberland*, *Edward Dacres*, *John Nevil*, *Egremond Ratchiff*, Brother to the Earl of *Suffex*, *Richard Norton*, *Roger* and *Michael Tempest*, and about forty more: Which Outlawries and Attainders were confirmed by Parliament the same Year. Among the Prisoners that were taken an Alderman of *Durham*, Parson *Plumtree* of the said City, and sixty six Constables were hanged at *Durham* by Martial Law. And at *York* were executed in like manner *Simon Digby*, *J. Fulthorpe*, *Thomas Bishop*, *Robert Penyman*; and at *London*, *Christopher* and *Thomas Norton*, all Gentlemen of good Families, besides several more in others Places. The Earl of Northumberland was delivered up to the Queen two Years afterwards, by Earl *Morton*, the Regent of Scotland, and beheaded at *York*, on the 22d of August 1572.

The occasion of this Insurrection we meet with in *Cambden's History of Queen Elizabeth*. He says, the Earl of Northumberland being privy to the intended Marriage of *Mary Queen of Scots*, then Prisoner in England, with the Duke of *Norfolk*; and sensible of his danger, was constrained to submit himself to the Earl of *Suffex*, at that time President of the North; desiring his Intercession to Queen *Elizabeth* on his behalf. Howbeit after this, there being a rumour, that Multitudes of People resorted to him, and likewise to the Earl of *Westmoreland*, the Lord President sent for them both;

and representing to them what he had heard, they utterly disclaimed the Guilt of any Conspiracy at all, assuring him, that they would adventure their Lives against all Traytors whatsoever. Nevertheless certain it is, that he endeavoured to raise what Forces he could; whereof the Queen having Advertisement, she sent her Letters to him, requiring his speedy repair to the Court. Which when he had read (being a Person of an easy Temper) and conscious of his own Affection to the *Romish Religion*; and being not a little exasperated, by reason that a rich Mine of Copper in his own Land, was adjudged a Mine-Royal, and consequently to belong to the Crown, he became so staggered, that he knew not which way to turn himself; whether to submit to the Queen's Mercy, or get away by flight, or break out into open Rebellion.

His Friends and Followers therefore discerning him thus to waver, caused one *Beckwith* his servant to come to his Chamber Door in the Night, and to alarm him with a report that his Enemies had beset his Park with a great Number of Men. And to the end he might not be wanting to himself, his Relations, and Friends; and to the Religion of his Forefathers, they told him, that all the Catholics in England were ready prepared to assert that Religion. They caused the Bells to ring backwards to raise the Country; which put him into so great a Consternation, that he presently rose out of his Bed, and fled privately to his Keeper's House near *Topcliffe* (for at *Topcliffe* he then was); and thence the next Night to *Branspeth*, (in the Bishoprick of *Durham*) to the Earl of *Westmoreland*; where a Multitude of their Confederates being met, they set out Proclamations in the Queen's Name, commanding the People to put themselves in Arms, for the Defence of her Majesty's Person; Sometimes affirming, that what they did, was with the advice and consent

1569.
12 Eliz.

1569.
12 Eliz.

sent of the Nobility of the Realm. And sometimes they said they did it for Conscience sake to reform Religion; lest otherwise Foreign Princes should take it upon them to the great Peril of the Realm. Whereupon they marched to *Durham* with Banners displayed. And to get the more Favour from those of the Romish Persuasion, they had a Banner, wherein was a Cross with the five Wounds of Christ, born before them. And after several Days marching from Place to Place, they came to *Clifford Moore* (near *Whetberby* in *Yorkshire*) being then to the Number of two thousand Horse, and five thousand Foot, with purpose to March towards *York*. Howbeit changing their Minds they returned Northwards, and besieged *Bernard Castle*, (which *Sir George Bowes* held out for eleven Days,) and had it rendred to them. But it was not long ere the Earl of *Suffex* (President of the *North*) with divers other Lords, having raised great Forces, advanced towards them: Which put them into such fear, that they fled into *Scotland*, where this Earl betook himself to the *Graham's* (great Robbers) at *Harelaw*, lurking in Cottages.

But not long after, the Vice-Roy of *Scotland*, to curry Favour with *Queen Elizabeth*, in order to the gaining of the *Queen of Scots*, then Prisoner, out of the restraint she had long endured, having found out this unfortunate Earl (who then lurked amongst the Border Robbers) sent him Prisoner to *Edinburgh*. After which, viz. Anno 1572, (14 Eliz.) being betrayed by the Earl of *Morton*,

(then Regent of *Scotland*), to whom he had formerly been a singular Friend, when he lay as a banished Person in *England*, he was upon a promised Reward delivered up to the Lord *Hunsdon*, Governour of *Berwick*, and on the 22d of *August*, beheaded at *York*, (as related already).

As to the Earl of *Westmoreland*, he fled over to the *Netherlands* with several other of the Malecontents, and was allowed a slender Pension from the King of *Spain* till he died. *Leonard Dacres*, Son of the Lord *Dacres*, being at Court at the time of this Insurrection, offered the *Queen* his Service against the Rebels; who knowing him to be a popular Man in the *North*, and not suspecting his Fidelity, granted him a Commission to raise Forces. By virtue of this he drew together a Body of three thousand Men near the Borders: With whom instead of opposing the Rebels, he intended to have joined the Earls of *Northumberland* and *Westmoreland*. But the Earls being fled before *Dacres* could assemble his Friends, he ventured to take the Field with the Troops he had raised; and gave Battel to the Lord *Hunsdon*, Governour of *Berwick*, who was ordered to attend his Motions. The Engagement was very bloody on both sides. But the *Queen's* Troops at length proving Victorious, *Dacres* fled, and made his Escape into the Low Countries. Whereupon the Peace of the Country was restored, and the *Queen* published a general Pardon, for all that had been concerned in the Rebellion.

1569.
12 Eliz.

Felton.

Proceedings against JOHN FELTON, for High Treason. Anno 1570. 13 ELIZ.

1570.
13 Eliz.
The Charge
against him.

THE Treason *Felton* was charged with, was his affixing the Bull of Pope *Pius V* against her Majesty on the Bishop of *London's* Palace Gate, in which is contained the following Sentence, viz.

' We do by Virtue of our Apostolick Power, declare the said *Elizabeth* an Heretick, and a Favourer of Hereticks, and her Adherents in the Crimes afore said, to have incurred the Sentence of Excommunication, and to be cut off from the Unity of the Body of

' Christ. Moreover, we declare her to be deprived of her pretended Title to the said Kingdom, and of all Dominion, Dignity and Priviledge whatsoever: And the Nobility, Subjects, and People of the said Kingdom, and all others who have taken an Oath to her, to be for ever absolved from any such Oath, and all other Duty, Allegiance and Obedience. We do likewise by Authority of these Presents, absolve them, and deprive the said *Elizabeth*

1570.
13 Eliz.Three ex-
cuted.

Convicted

1570.
13 Eliz.
The Charge
against the

1570.
13 Eliz.

' *Elizabeth* of her pretended Title to the Kingdom, and all other Things before mentioned. And we charge and command all and every the Noblemen, Subjects, People, and others aforesaid, that they presume not to obey her, or her Orders, Mandates and Laws: And those who shall do otherwise, are subject to the like Excommunication. Given at *Rome* at St *Peter's*, in the Year of the Incarnation of our Lord 1569, *March* 28. And in the fifth Year of our Papacy.'

Confessed.

Felton being apprehended and brought to his Trial at *Guildhall*, on the 4th of *August* 1570, boldly confessed the Fact and justified it; whereupon Sentence passed on him as a Traytor, and he was

executed in *St Paul's Churchyard*, getting thereby says *Mr Camden*, the empty repute of a glorious Martyrdom. But most of the moderate Papists secretly disliked the Bull, because there had been no previous Admonition, as Justice required: And withal foresaw the Storms that hung over their Heads, who before securely exercised their Religion within their own private Houses; or had made no Scruple of frequenting the Service of God, as now received in the *English Church*. And from that time many of them continued firm in their Allegiance; especially when they saw the Neighbouring Princes and the Catholick Countries keep up their usual Correspondence with the Queen, and the Bull to be slighted.

1570.
13 Eliz.

Proceedings against JOHN THROGMORTON, Esq; THOMAS BROOK, GEORGE REDMAN, Gent. and Seven more Gentlemen of Norfolk, for High Treason. Anno 1570.
13 ELIZ.

Throgmorton, &c.

1570.
13 Eliz.

The Charge against them.

THE Treason the Prisoners were charged with was, their conspiring the Death and Destruction of the Queen; and in order to it to raise an Insurrection, and levy War against her Majesty. The Prisoners *Brook* and *Redman*, and six more pleaded not Guilty at the Affizes held at *Norwich*; but were convicted and received Sentence of Death as Traytors. *Throgmorton* stood mute at his Arraignment. However Sentence of Death passed on him likewise as a Traytor. And when he was brought to the place of Execution with the said *Brook* and *Redman*, he confessed his Guilt; and they were all three executed, but the rest of the Prisoners were pardoned.

Convicted.

Three executed.

Mr Camden in his Life of *Queen Elizabeth* relates, that these Gentlemen

in order to set the Duke of *Norfolk* at Liberty, who was imprisoned in the *Tower*, for contracting Marriage with the Queen of *Scots*, had conspired to raise the Populace at *Harelestone Fair* by Sound of Trumpet; and to give out that their Intention was only to drive the *Netherlanders* out of the Kingdom, who resorted hither in great Numbers at this time, from the Persecution of the Duke of *Alva*. But the Plot was discovered by *Thomas Kete*, one of the Conspirators, before the Day appointed for the Insurrection. And they were all apprehended and committed to Prison, by the Justices of Peace of the County; and three of them executed at *Norwich*, as related already.

1570.
13 Eliz.

The occasion of this Conspiracy.

Dr Story.

Proceedings against JOHN STORY, Doctor of Law, for High Treason. Anno 1571. 13 ELIZ.

1571.

13 Eliz.

The Charge against them.

THE Indictment charged him with High Treason, in conspiring the Death and Destruction of the Queen. The Overt Acts laid in the Indictment, were his giving Instructions to the Duke of *Alva's* Secretary, how to invade *England*, and raise an Insurrection in *Ireland*: His consulting with a Magician how to take away the Queen's Life, and cursing her Majesty daily in his Grace at Meals.

His Defence.

When he was arraigned, he refused to plead, objecting that he was in the Service of the King of *Spain*, and had never taken the Oaths to the Queen, and therefore was not subject to the Laws of *England*. But the Judges resolved, that no Man could relinquish his Country where he was born, or abjure his Native Soil or Prince, and thereupon he was condemned and executed as a Traytor.

Convicted and executed.

Some account of Story.

Mr *Fox* relates, that this *Story* was a most violent Prosecutor of the Protestants, in the Reign of Queen *Mary*; making him have a share in the Sufferings of most of the Martyrs; and charges him with inventing new Torments to exercise their Patience. He was apprehended and committed to Prison, on the Accession of Queen *Elizabeth*; but found means to make his Escape into *Flanders*, where the Duke of *Alva* consulted him in his Designs against *England*; and gave him a Place in the Customs, which entitled him to search all Ships that came into the Harbour of *Antwerp*. He was also made use of to search for Here-

ticks and Heretical Books, and became as great a Prosecutor in the Low Countries, as he had been in *England*. Whereupon some *English* Merchants made use of the following Stratagem to surprize *Story*.

They sent one *Parker* in a Ship to *Antwerp*, who employed a Person to inform *Story*, that he had Heretical Books on Board. Whereupon *Story* as it was expected, came on Board the Ship to search for them, and being decoyed down into the Hold, the Hatches were immediately shut, and the Captain set Sail with the Doctor for *England*, where he was tryed and condemned for High Treason, as related already. *Fox* adds, that being cut down when he was half dead, and his Privy Members cut off, he started up on a suddain, and gave the Executioner a Box on the Ear, which did not however prevent the Hangman from executing the remainder of the Sentence.

In the Month of *February*, following *Kenelm Barney* and *Edmund Mather*, were convicted and executed for High Treason, in conspiring the Death of some of the Members of the Privy Council; and *Henry Rolf*, for counterfeiting the Queen's Hand.

The following Year, *John Hall* of *Battel* in *Suffex*, Gent. and *Oswald Wilkinson* of *Tork* Taylor, were executed as Traytors at *Tyburn*, but for what Species of Treason does not appear.

1571.

13 Eliz.

Other Criminals executed as Traytors.

Proceedings against MARTIN BULLOCK, for Felony and Murder. Anno 1572. 14 ELIZ. Bullock,

1572.
14 Eliz.
The Charge
against him.
The Evi-
dence.

THE Prisoner being arraigned for Felony, and for the Murder of *Arthur Hall*, Merchant, and pleading *Not Guilty*, it appeared upon the Evidence, that *Bullock* the Prisoner sent for the said *Arthur Hall* to his House in *Bishopsgate-street*, to purchase some Plate which *Bullock* had to sell: And that *Hall* upon viewing the Plate, said it is none of your Plate, it hath *Dr Gardner's* Mark upon it, and I know it to be his. The Prisoner replied, that is true, but he hath appointed me to sell it. And while the said *Hall* was weighing the Plate, the Prisoner came behind him and knocked him down with a Club; then stabbed *Hall* with his own Dagger, and afterwards cut his Throat. Then he endeavoured to pack up the Corps in a *Dantzick* Chest, but it was too short. Whereupon he cut off the dead Man's Legs, and having pack'd up the Corps with Straw, sent it on Shipboard, directed to *Rye* in *Suffex*; telling the Porter it was his Apparel and Books. However *Mr Hall* being missed by his Friends; and understanding the Business he went upon, they apprehended the Prisoner, and carried him before Alderman *Branch*, one of the Sheriffs of the City of *London*; where he made so plausible a De-

sence, that the Alderman admitted him to Bail. The Prisoner was no sooner at Liberty than he absconded, and taking Boat at *Westminster*, went up the River eight Miles beyond *Windsor*. From thence however he came back again to *London*, and took a Lodging in *Holborn*, where he hoped to remain undiscovered. It was no sooner known that the Prisoner absconded, but the former Suspicion revived; and *Robert Gee* the Prisoner's Bail was taken up, and charged with being accessary to the Murder. Whereupon *Gee* sent out every where to get *Bullock* the Prisoner apprehended. And at the same Time dispatched a Servant to *Rye* to seize the Chest which was sent down thither. And the Chest being arrived there and opened, the mangled Carcass of *Arthur Hall* was found in it. And *Bullock* the Prisoner was, about the same Time, apprehended at his Lodgings in *Holborn*; against whom the Circumstances appearing so strong, the Jury made no difficulty in finding him Guilty; and he himself at length confessed the Fact. Whereupon he was condemned and hanged on a Gibbet in *Bishopsgate-street*, near the House where he committed the Murder, on the twenty fourth of May, 1572.

1572.
14 Eliz.

Convicted
and executed.

Proceedings against GEORGE BROWN, ANNE SANDERS, ANNE DRURY and ROGER CLEMENT for Murder. Anno 1573: 15 ELIZ. Brown, Sanders, &c.

1573.
15 Eliz.
The Charge
against them.

GEORGE BROWN was indicted, as Principal, for the Murder of *George Sanders*, Merchant of *London*, and *John Bean*, Servant of *— Barnes*, of *Woolwich* in the County of *Kent*. And *Anne Sanders*, *Anne Drury*, and *Roger*

Clement were indicted as Accessaries to the said Murders, both before and after the Fact.

It appeared upon the Evidence, that the said *Anne Sanders* was the Wife of the said *George Sanders* who was murdered

1573.
15 Eliz.

The Evi-
dence.

1573.
15 Eliz.

dered; and that the Prisoner *George Brown* entertained a criminal Conversation with the said *Anne Sanders*; that the said *Anne Drury* was their Confident, and assisted them in this unlawful Commerce. That the said *Anne Drury* on *Wednesday* in *Easter Week*, being the twenty fifth of *March*, sent the said *George Brown* a Letter, acquainting him, that the deceased *Mr Sanders* would lodge the same Night at the House of one *Mr Barnes* in *Woolwich*, and from thence go on Foot to *St Mary Cray* near *Shooters-Hill*, the next Morning. And that thereupon the Prisoner *Brown* lay in wait for the said *Mr Sanders* near *Shooter's Hill*, and there killed him and mortally wounded the said *John Bean* who attended him, imagining he had killed both: And thereupon sent a Letter by *Roger Clement*, *Mrs Drury's* Man, (who went by the Name of *Trusty Roger* amongst them) acquainting *Mrs Drury* that the Deed was done.

In the mean Time *John Bean*, notwithstanding he had received ten or eleven Wounds, and was left for dead, revived again; and creeping away upon all four, was found by an old Man and his Maid and conveyed to *Woolwich*; where he described the Murderer so well before he died, that he was easily known. The Prisoner *Brown* finding the Matter had taken Air, came to *London*, where *Mrs Drury* furnished him with twenty Pounds, for which she and *Mrs Sanders* had pawn'd some Plate. And the next Morning they sent him six Pounds more by the Prisoner *Roger Clement*, desiring him to shift for himself. But so strict a Search was made after him by order of the Queen's Council, that he was apprehend-

ed at *Rocheſter*, and confessed the Fact; adding that he had oftentimes lain in wait before to murder the deceased; *Mrs Drury* promising to make a Match between him and *Mrs Sanders*, whom he passionately loved, as soon as it was done. And both at his Examination and Arraignment in the Court of *King's Bench* on the 18th of *April*, *Brown* solemnly protested that *Mrs Sanders* was not consenting or privy to the Murder of her late Husband *George Sanders*. However having confessed himself Principal in the Fact, he was condemned and hanged in *Smithfield* on the twentieth of *April*: At which Time he took a great deal of Pains to acquit *Mrs Sanders* of having any criminal Conversation with him, or of consenting to the Murder of her said deceased Husband; tho' it soon appeared what he said at his Death was false.

The other three Prisoners, *Mrs Drury*, *Mrs Sanders* and *Roger Clement* being apprehended; *Roger* confessed the Fact. And after *Mrs Sanders* had lain in (for she was big with Child when she procured her Husband to be murdered) they were brought to their Trials at *Guildhall*. And tho' both the Women positively denied their having any Knowledge of the Murder, they were found guilty and condemned; as was the said *Roger Clement* afterwards, notwithstanding his Confession, which was the only Evidence almost against the Women. And being all brought to the Place of Execution in *Smithfield* on *Wednesday* in *Whitſon Week*, *Mrs Sanders* and *Mrs Drury* both of them confessed themselves guilty. After which the Executioner did his Office.

Brown con-
victed and
executed.Mrs Sanders
&c. convicted.And execu-
ted.

Burchet.

Proceedings against PETER BURCHET, a Student of the Temple, for Heresy and Murder. Anno 1573. 15 ELIZ.

1573.
15 Eliz.The Charge
against him.

PETER BURCHET, the Prisoner, a zealous Enthusiast, who held it lawful to kill any Man of a different Faith, was first charged with assaulting and wounding that celebrated Sea Commander, *Mr Hawkins* (whom he mistook

for *Mr Hatton*, one of the Privy Council,) under an Apprehension that *Mr Hatton* opposed the Establishment of the Presbyterian Doctrines and Discipline. The Queen being acquainted with this Outrage, first gave Direction that the Prisoner

1573.
15 Eliz.

1573.
15 Eliz.
Prisoner should be tried by martial Law, but being informed that was never done in Time of Peace, he was left to the Courts of Common Law. But *Burchet* persisting to justify the Fact, and to maintain several heretical and seditious Doctrines (and Mr *Hawkins* recovering of his Wounds) he was order'd to be try'd for Heresy in the Bishop of London's Court. When Sentence was to be pronounced against him as an obstinate Heretick, he promised to renounce his Opinions and submit to such Penance as the Court should enjoin him. However shifting it off from Time to Time he was committed to the Tower, where he murdered one of the Warders next morning. And being brought to his Trial it appeared upon the Evidence, That

being left in the Custody of two Warders, while one of them went down upon some Occasion, *Burchet* took a Billet out of the Chimney and beat out the other's Brains, and was waiting to murder the other when he returned. But the last Warden happening to discover his Brother murdered as he entered the Room, run out again immediately, and clapping to the Door, called for Assistance and secured the Prisoner. Upon this Evidence the Jury brought him in guilty; and He was hanged on a Gibbet in the Street, where he stabb'd Mr *Hawkins*. He shewed no Signs of Repentance at his Execution, but was dragg'd by force to the Gibbet where his Right Hand being cut off and nailed to it; He was afterwards hang'd.

1573.
15 Eliz.
Convicted and executed.

Proceedings against certain Dutch Anabaptists for Heresy.
Anno 1574. 16 ELIZ.

Anabaptists.

1574.
16 Eliz.
A Conventicle of Dutch Anabaptists being discover'd at a House without Aldgate, twenty seven of them were apprehended and committed to Prison: Of whom four were reclaimed and brought to recant their Errors at Paul's Cross on the fifteenth of May in the following Manner, viz.

' I A. B. being seduced by the Devil, the Spirit of Error and by false Teachers his Ministers, have fallen into many damnable and detestable Heresies, viz. 1. That Christ took not Flesh of the Substance of the blessed Virgin Mary. 2. That Infants born of faithful Parents ought to be rebaptised. 3. That no Christian Man ought to be a Magistrate or bear the Sword or Office of Authority. 4. And that it is not lawful for a Christian Man to take an Oath. Now by the Grace of God, and through Conference with good and learned Ministers of Christ his Church, I do understand and acknowledge the same to be most damnable and detestable Heresies: And do ask God, here before his Church, Mercy for my said former Errors: And do forsake them, recant, and renounce them, and abjure them from the very bottom of my Heart. And further I confess, that the whole

Doctrine and Religion established in this Realm of England, also that which is received and practised in the Dutch Church here in this City is sound, true, and according to the Word of God: Whereunto in all things I submit myself, and will most gladly be a Member of the said Dutch Church, from henceforth utterly abandoning and forsaking all and every Anabaptistical Error.

This Discipline carried something of Terror, and check'd the Heresy. But some were so obstinate, that neither Instruction nor Punishment could make any Impression on them. Ten Dutchmen and one Woman of the same Country, proving thus incorrigible were brought into the Consistory at St Paul's, and condemned to the Stake. There was great Pains taken to undeceive them; but none but the Woman was recovered. However the Government was so merciful as to banish the rest without any farther Punishment. This Clemency giving Encouragement to others, 'twas thought necessary to proceed to some Instances of Severity, and two of the same Nation and Heterodox, were burnt in Smithfield. While they lay under Sentence, Fox, the Martyrologist, petitioned the

1574.
16 Eliz.

Ten convicted of Heresy.

And banished.

Two burnt:

1574.
16 Eliz.

the Queen in their Behalf: He wrote a *Latin* Letter in a very handsome Christian Strain. 'Twas to mitigate the Rigour and change the Punishment, or at least to respite the Execution for a Month or two: That during this Interval they might have the Assistance of some learned Men to disentangle their Understandings, and bring them off their Heresy. But a Reprieve being granted, and Fox's Expedient tried without Success, the Forfeiture of their Lives was taken.

A popish Priest convicted and executed for seducing the Queen's protestant Subjects.

On the other Hand *Cutbberth Maine*, a *Romish* Priest, and an obstinate Maintainer of the Pope's Supremacy against that of his Prince, was convicted of High Treason at *Launceston* in *Cornwall*, in the Year 1577, on the Statute which makes it Capital to reconcile any Subject of *England* to the See of *Rome*. And *Trugion*, a Gentleman who harboured him, was condemned to perpetual Imprisonment and his Estate confiscated. *Maine* was the first Priest, according to *Cambden*, that was put to Death upon the abovesaid Statute, tho' it was made six Years before.

The following Year 1578, *John Nelson* and — *Sherwood* were convicted of High Treason, in denying the Queen's Supremacy, and executed as Traytors at *Tyburn*.

Mt. Cambden relates, That these Priests taught the People, that the Queen was a Schismatick and Heretick, and therefore ought to be deposed: That from their Seminaries were sent forth Emissaries into divers Parts of *England* and *Ireland*, who at first pretended only to administer the Sacraments of the *Romish* Religion, and to preach to Papists. But the Queen and her Council soon found that they were sent underhand to seduce the Subjects from their Allegiance and Obedience due to their Prince, to oblige them by Reconciliation to perform the Pope's Commands; to stir up intestine Rebellions under the Seal of Confession; and indeed to execute the Sentence of *Pius V* against the Queen; to the End that way might be made for the Pope and the *Spaniard*, who designed the Conquest of *England*.

1574.
16 Eliz.
Two convicted of denying the Queen's Supremacy. Some Account of their Practice.

1574.
16 Eliz.

1580.
22 Eliz.
Landal pretend Conjur and tho who com d him, icted c any.

Hamont.

Proceedings against MATTHEW HAMONT, of Netherfet in the County of Norfolk Ploughwright, for Heresy. 1578. 20 ELIZ.

1578.
20 Eliz.

The Charge against him.

THE Articles the Prisoner was charged with in the Bishop of *Norwich*'s Court were,

I. That he had maintained that the New Testament and Gospel of Christ are but mere Foolishness, a Story of Men, or rather a mere Fable.

II. That Man is restored to Grace by the mere Mercy of God; without the means of Christ's Blood, Death and Passion.

III. That Christ is not God, nor the Saviour of the World, but a mere Man, a sinful Man, and an abominable Idol.

IV. That all they that worship him are abominable Idolaters: And that Christ

did not rise again from Death to Life by the power of his Godhead, neither that he did ascend into Heaven.

1578.
20 Eliz.

V. That the Holy Ghost is not God, neither that there is any such Holy Ghost.

VI. That Baptism is not necessary in the Church of God; neither the Use of the Sacrament of the Body and Blood of Christ. For the which Heresies he was condemned in the Consistory, and Sentence was read against him by the Bishop of *Norwich* the fourteenth of *April*, and thereupon delivered to the Sheriffs of *Norwich*. And because he spake Words of Blasphemy against the Queen's Majesty and others of her Council, he was by the Recorder, Master Sergeant

Windham,

He is convicted.

1580.
24 Eliz.
The C

1578.
26 Eliz.

Windbam, and the Mayor Sir *Robert Wood* of *Norwich*, condemned to lose both his Ears; which were cut off the thirteenth of *May* in the Market-place of *Norwich*; where he confirmed his

blasphemous Speeches against our Saviour *Jesus Christ*, for which on the twentieth of *May* he was burnt in the Castle Ditch of *Norwich*.

1578.
20 Eliz.

and burnt.

Proceedings against WILLIAM RANDAL for Sorcery.
Anno 1580. 22 ELIZ.

1580.
22 Eliz.

IN the Year 1580 *William Randal* was tried and found guilty of *Felony*, and condemned by the Court of King's Bench for practising Conjurament. This consisted it seems in his discovering where Treasure was hid in the Earth, and what was become of stolen Goods. And *Thomas Elks*, *Ralph Stracy*, and — *Waddington* were found guilty of Felony, and condemned to be hang'd

for being present at his Conjuraments. And the said *William Randal* was executed in pursuance of his Sentence; but the rest were reprieved, and I presume pardoned afterwards.

In the Year 1581 *Edward Haunce*, a Priest, was condemned and executed as a Traytor, for maintaining the Pope's Supremacy.

1580.
22 Eliz.

Randal Executed.

1581.
Haunce a Priest executed.

Proceedings against JOHN STUBBS of Lincolns - Inn, Gentleman, HUGH SINGLETON, of London, Printer, and WILLIAM PAGE for Printing and Publishing a seditious Libel. Anno 1581. 24 ELIZ.

1581.
24 Eliz.

THE Libel the Prisoners were charged with making and publishing, was entitled, *The Gulph wherein England will be swallowed up by the French Marriage*: Wherein those of the Council who favoured the Marriage are taxed as ungrateful to their Princess and Country, the Queen her self (in the midst of several flattering Expressions) is glanced at as unlike herself: The Duke of *Anjou* slandered with unworthy Reproaches; the *French* Nation odiously defamed; and the Marriage its self in regard of the difference of Religion (as of the Daughter of God with a Son of Antichrist) with virulent Words condemned, as profane, dangerous to the Church, and destructive to the Commonwealth, and this proved out of the Holy Scriptures miserably wrested.

The Queen upon the Publication of this Libel, issued a Proclamation; wherein having censured the Author of the said Book as a Publisher of Sedition; she highly commended the Duke of *Anjou's* Affection towards her and the Protestant Religion; and expressed her Resentment that so great an Injury should be offered to so noble a Prince, and one that had so well deserved; who desired nothing to be altered either in the Commonwealth or Religion. And withal she commended *Simier*, the Duke of *Anjou's* Agent, for his Wisdom and Discretion, whom some had loaded with Calumnies and Slanders. She also advertised the People; that the said Book was nothing else but a Fiction of some Traytors to raise Envy abroad, and Sedition at home, and commanded

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Convicted
and con-
demned to
lose their
right Hands.

Mr Camb-
den's Obser-
vations on
these Pro-
ceedings.

it to be burnt before the Magistrate's Face.

Soon after publishing the said Proclamation, the said *John Stubbs*, *Hugh Singleton*, and *William Page* were apprehended: *Viz*, The said *Stubbs*, of Framing, *Singleton* of Printing, and *Page* of Dispersing and Publishing the said Libel; and every one of them was condemned to lose his right Hand.

Mr *Cambden* relates, That some Lawyers muttered that the Sentence was erroneous, and void by reason of the false noting of the Time, wherein the Law was made; and that the Act was only temporary, and died with Queen *Mary*. Of this Number was *Dalton*, who often bawled out openly, and was committed to the Tower. And *Monson* a Judge in the Court of Common Pleas, was so sharply reprehended, that he resigned his Place. *Wray* Lord Chief Justice of England, made it appear there was no mistake in noting the Time; and proved by the Words of the Act, that the Act was made against those who should abuse the King by seditious Writings, and that the King of England never dieth; yea

that the Act was renewed, *Anno primo Elizabethæ*, to be in force during the Life of her, and the Heirs of her Body. Hereupon *Stubbs* and *Page* had their Right Hands cut off with a Cleaver, driven through the Wrist by the force of a Mallet, upon a Scaffold in the Market-Place of *Westminster*. The Printer was pardoned. I remember says Mr *Cambden*, being there present, that *Stubbs* after his Right Hand was cut off, put off his Hat with his Left, and said with a loud Voice, *God save the Queen*. The Multitude standing about was deeply silent, either out of an horror of this new and unwonted kind of Punishment; or else out of a Commiseration towards the Man, as being of an honest and unblamable Repute; or else out of hatred of the Marriage, which most Men prefaged would be the overthrow of Religion.

These Things were done presently after the Duke of *Anjou's* coming into England.

This *Stubbs*, Mr *Cambden* adds, was a furious hot-headed Professor of Religion; and had married his Sister to *Thomas Cartwright*, a Ringleader of the Puritans.

Campion and
other popish
Priests.

Proceedings against EDMUND CAMPION, RALPH SHERWIN, LUCAS KIRBY, EDWARD RISHTON, THOMAS COTEHAM, HENRY ORTON, ROBERT JOHNSON, and JAMES BOSGRAVE, Priests and Jesuits, for High Treason, at the Queen's Bench Bar at Westminster, on the 20th of November. Anno 1581. 24 ELIZ.

1581.
24 Eliz.
The Charge
against them!

THE Prisoners were indicted on the Statute of 25 *Edw. III.* for High Treason, in conspiring the Death of the Queen: Of which the Overt Acts laid in the Indictment, were, their forsaking their native Country to live beyond Sea under the Dominion of the Pope at *Rome*, *Rheims*, and in divers other Places: That the Pope had with other Princes, conspired the Death

and deprivation of her Majesty, and the utter Subversion of her Throne and Kingdom, to advance his most abominable Religion: And the Prisoners having vowed Allegiance to the Pope, and to obey him in all Causes whatsoever, gave their consent and used their utmost endeavours, to aid him in his intended Enterprises; and for that Intent and Purpose came over into England to seduce her Majesty's

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dence:

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jeſty's Subjects, and contrive her Death and Deſtruction, againſt a certain appointed Time, when the Pope and his Confederates had agreed to invade the Kingdom with foreign Troops, and join her diſaffected Subjects.

The Priſoners pleading Not Guilty to this Indictment, the Queen's Council began to open it; and obſerved that repeated Plots of the Papiſts againſt her Maſteſty and the Kingdom, had of late Years been diſcovered, and ſeveral of the Conſpirators had been convicted and executed. They took notice alſo of all the Inſurrections in the North of *England* and *Ireland*, which had been incited by the Pope's Bull; wherein he pretended to depoſe her Maſteſty, and abſolve her Subjects from their Allegiance.

To this *Campion* who managed the Defence for himſelf and the reſt of the Priſoners answered, That the Treasons and Conſpiracies of other Men ought not to affect them; and inſinuated that theſe Things were only repeated to influence the Jury againſt them.

The Queen's Council replied: That they did not offer this as Proof againſt them, but only by way of Introduction to ſhew the Probability there was of their engaging in ſuch a Deſign; and ſhould now produce their Evidence directly againſt them. Whereupon the Books written by Doctor *Sanders* and Doctor *Briſtol*, in defence of the Pope's Bull againſt her Maſteſty were read, which juſtified the Rebellion in the North: And they obſerved that this Book was ſpecially commanded to be read by the *Engliſh* Jeſuits and Priests, both at *Rome* and *Rheims*; and that none of them were ſuffered to be without one of thoſe Books. And this was attested by *Hart*, a Brother Jeſuit, and ſeveral others. The Priſoners however denied their having ſeen any ſuch Books; and if they were commanded to read certain Books, they did not, they ſaid, contain any ſuch obnoxious Expreſſions as had been read.

Then was Evidence produced to prove their coming over to *England* on purpoſe to ſeducer her Maſteſty's Subjects, and render them diſaffected to the Government. And *Jonn Elliot* depoſed, That being converſant among the Papiſts, he happened into the Company of one *Pain* a Priest, who informed him that there was an Inſurrection ſhortly intended; and that they deſigned to take off the Queen and

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ſeveral of the Privy Council; and deſtroy all that were not of their Party. And when *Elliot* the Witneſs demanded how they could permit ſuch Barbarities, *Pain* answered it was no offence againſt God to kill her Maſteſty, or any one that adhered to her.

Campion replied, What another Priest ſaid was no evidence againſt them: That they came over purely for the Salvation of Souls. They acknowledged the Queen to be their lawful Sovereign, and had no traiterous deſign againſt her, or her Government. But it being demanded if the Queen commanded any thing, and the Pope commanded the contrary; which of them they would obey: *Campion* and his Brethren did not think fit to make any direct answer to this.

It was farther testified, That there being a Diſcourſe in their Seminaries abroad, of ſending ſome Priests to *England*, *Campion* was judged a very proper Perſon for this Service. *Campion* answered, They might have an opinion of him that he did not deſerve; and that if he was appointed to be ſent to *England*, it was for ſaving of Souls as the other Priests were: It did not follow that they were ſent to contrive the Death of the Queen, and ruin their Country: They ought to conſider they were entered into that bleſſed Society of the Jeſuits; and had forſaken the World as it were vowing Chſtity and Sincerity, and to obey their Superiours, and be ready to go whitherſoever they ſhould ſend them; if it were to the *Indies*, or among Infidels in any part of the World. They had no ſecular or ſelfiſh Views, and how could it be thought then that they ſhould conſpire the Deſtruction of any Prince or Country where they ſettled: They heard Peoples Confeſſions indeed, but they did not perſuade them to Diſobedience: God forbid they ſhould think any ſuch Thing.

To theſe Apologies were oppoſed the Teſtimony of *John Hart* the Jeſuit, who went to *Rome* on purpoſe to confer with the Pope about theſe Matters; And ſeveral of their own Confeſſions acknowledging their Guilt. A little Latin Book found in their Cuſtody alſo was produced, wherein were certain Rules preſcribed how they ſhould behave themſelves in *England*; and what evaſive Answers they ſhould make, when they were hard preſſed, to declare themſelves concerning their Allegiance to her Maſteſty: As when

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it should be demanded whether they would obey her, notwithstanding the Pope's Excommunication, or any thing he commanded to the contrary: Then they should answer, we desire you not to charge our Consciences, and that you would not enter so deep into our Consciences: We trust the Pope will not command us any thing against her; and such like dubious Answers. From whence it was inferred that they had a greater regard to the Pope than to her Majesty. And such kind of Answers as these *Campion* and the rest of the Prisoners made in Court to the like Questions; adding that the Courts of Law had nothing to do to determine matters of Conscience.

Then Evidence was given of their coming over to *England* with uncommon Expedition: From whence it was inferred there must be some extraordinary Reason for taking this Journey. As to *Campion* it appeared he was at *Prague*, in *Bobemia*, from whence he was sent for to *Rome*, and staying there but five Days was dispatched to *England* by the Pope and the superiour of the Jesuits, with several other Priests. And considering the Pope's Intent in keeping them here; the Malice he bore to her Majesty and the Realm; and the Oath he had taken to execute whatever he commanded, their traitorous Designs were taken for granted.

Campion hereupon admitted his being at *Prague*, his being sent for to *Rome*, and his being dispatched to *England* with the rest of the Popish Priests, with that Expedition that had been testified; but still insisted that they came to *England* with no other intent than for the Salvation of Souls.

Then the Information of a Person who came over in the same Ship with *James Bosgrave*, one of the Prisoners, was produced in Evidence, importing that *Bosgrave* acquainted him that an Insurrection was intended in *England*; and would have persuaded the Informant to be an Accomplice in the Treason.

To this *Campion* answered: *Bosgrave* might have heard such a Thing was reported; but they were not to be condemned upon every Rumour: Besides here was only a written Deposition, which was no Evidence in Treason: The Witnesses ought to have given his Testimony *Viva Voce* in Court. Then a Letter was produced from *Edward Rishton* one of the Prisoners

to another Priest in *England*, importing that there were four Goldsmiths lately come over, who were in reality Priests, and that in all Things went on successfully. *Campion's* Letter also from the Tower (where he had been tortured upon the Rack) to one *Pound* was read; wherein he acquainted *Pound* that he was very sorry through Frailty he had discovered those at whose Houses he had been so friendly entertained; and asked God and them heartily Forgiveness whom he had so highly offended: Adding (as to the chief Matter) that this was yet unrevealed: And that come Rack, come Rope, that should never be discovered.

Then the Jury withdrew, and having considered the Evidence, and the Prisoners Defence brought them all in Guilty. Whereupon Sentence was pronounced on them as Traytors. After which being remanded to the Tower, as they were going thither, *Thomas Coteham* one of the Prisoners, wished that Fire and Brimstone might fall down from Heaven, and destroy the City, and all that were in it.

The next Day being the 21st of November, *Thomas Hart*, *Thomas Ford*, *William Filby*, *Laurence Richardson*, *John Sbert*, *Alexander Brian*, and *John Collington*, Popish Priests, were tried at the King's Bench Bar, for the like Treason, and all of them convicted and condemned as Traytors, except *John Collington*, who was acquitted.

On the first of December, *Edmund Campion*, the Jesuit, and *Ralph Sherwin*, and *Alexander Brian*, Priests, being brought to the Place of Execution, *Campion* made the following Speech from the Cart, viz.

'I am brought as a Spectacle before the Face of God, of Angels and of Men, satisfying my self to die as becometh a true Christian and Catholick Man. As for the Treasons that have been laid to my Charge, and I am come here to suffer for, I desire you all to bear Witness with me, that I am altogether innocent.' Whereupon answer was made to him by one of the Council, that he could not deny the Charge against him, having been proved so manifestly to his Face, by sufficient Evidence. 'Well, my Lord (quoth he) I am a Catholick Man and a Priest, in that Faith I have lived hitherto, and in that Faith I do intend to die; and if you esteem my Religion Treason, then

They were convicted and condemned.

Other popish Priests convicted and condemned.

Their Behaviour at the place of Execution.

The Evidence.

1581.
24 Eliz.
of Force I must grant what you do say; but as for any other Treason I will not acknowledge it. Then was he moved concerning his traitorous Offence to the Queen's Majesty. Whereunto he answered, *She is my lawful Princess and Queen.* After which having finished their Private Devotions, the Executioner did his Office.

Campion is generally held to have been a Man of great Learning and excellent Parts, a good Disputant, and extremely well qualified to make Profelytes. And it appears that his fellow Prisoners had such an Opinion of his Abilities, that they left their Defence entirely to him. Nor were they mistaken in their Man. He made a very good Defence, and they seem to have had hard Measure, as they were indicted upon the Statute of 25 Edward III, which requires two Witnesses to be produced *Viva Voce* in

Court, for that Species of Treason, *Viz. Conspiring the Death of the Queen Regent*: Whereas they were condemned purely upon Circumstances, Hearsay, and written Depositions. It is true they might have been convicted of High Treason as Priests, for coming to England, and remaining here, upon another Statute. But then they ought to have been indicted and tryed upon that Statute, and not attainted upon this. But to proceed, On the 28th of May 1582, the abovesaid *Thomas Ford, John Shert, and Thomas Johnson*, Priests, were executed as Traytors at Tyburn. And on the 30th of the same Month, the said *Luke Kirby, William Filby, Thomas Coteham, and Laurence Richardson*, were executed at the same Place, for the same Treason: And about the same time *Lewis Pain*, Priest, was convicted and executed for Treasonable Words at Chelmsford.

1581.
24 Eliz.

Several more Priests and Jesuits executed.

Proceedings against ELIAS THACKER, of St Edmund's Bury, Taylor, and JOHN COPPING, of the same Place, Shoemaker, for Felony. Anno 1583. 25 ELIZ.

Thacker and Copping.

1583.
25 Eliz.
THE Prisoners were indicted on 13 Eliz. Cap. 2. Whereby it is enacted, That if any Person shall devise, write, print, or set forth any Book, Rhime, or Ballad, Letter or Writing, containing any false Seditious or Slandorous Matter to the Defamation of the Queen, or to the stirring or moving of any Rebellion: Or shall cause any such Book, Writing &c. to be written, printed or published, every such Offence shall be adjudged Felony.

The Prisoners pleaded not Guilty, whereupon the Witnesses were called and testified, That they dispersed and published certain Books written by one *Tho. Brown*, a Secretary; wherein he declares, that her Majesty's Government was Antichristian; that the Sacraments were clogg'd with Superstition; that the Liturgy had a mixture of Popery and Paganism in it; and the Mission of the Clergy was no better than that of *Bad's* Priests; and advised his Disciples to set up separate Congregations in opposition to those of the established Church; and not to

join with any Congregation of the Church England in any publick Worship.

It appears also, that some of the Prisoners, or some of their Sect, had set up the following Inscription about the Queen's Arms, in one of the Great Churches in *St Edmund's Bury, viz.*

'I know thy Works, that Thou art neither Cold nor Hot, I would thou wert either Cold or Hot; therefore because thou art Luke-warm and neither Cold nor Hot, it will come to pass I will spue thee out of my Mouth.' And again, 'Notwithstanding I have a few things against Thee, that thou sufferest the Woman *Jesabel*, which maketh herself a Prophetess, to teach and deceive my Servants, to make them commit Fornication, and to eat Meat sacrificed to Idols.'

The Jury having found the Prisoners guilty of Felony, Sentence of Death was pronounced, and they were both executed at Bury.

As to *Brown* the Author of these Seditious Libels; Mr *Collier* in his Ecclesiastical

1583.
25 Eliz.

Convicted and executed.

The Charge.

The Evidence.

1583.

25 Eliz.

Some account of Brown, the Author of these Seditious Lieels.

tical History, gives the following account of him:

He was descended from a considerable Family in the County of Rutland; educated at Bennet Castle in Cambridge; fell into Cartwright's Opinions, and at last went much farther in his Singularities; and believing himself obliged to go out of Babylon, he sets Sail for Zealand, and joins Cartwright's Congregation at Middleborough: But finding some of the old Blemishes even here, he resolves to refine upon Cartwright's Scheme, and produce something more perfect from his own Invention. His Model was drawn up in a Book entitled *A Treatise of Reformation*; and printed in the last Year at Middleborough: And having sent as many Copies into England as he thought necessary, followed his Blow and came over soon after.

At this time the Dutch had a numerous Congregation at Norwich, many of these People enclining to Anabaptism, were the more disposed to entertain any new resembling Opinions. Brown made his first Essay upon three Dutchmen; and being of a positive imperious Temper, took care to pick out the most flexible and resigning. And after having made some Progress amongst them, and raised himself a Character for Zeal and Sanctity, he began to tamper farther, and advance to the English. And here he took in the Assistance of one Richard Harrison, a Country Schoolmaster. Being thus reinforced and flushed with Success, he plaid his Project, at length formed Churches out of both Nations, but mostly of the English: And now he instructed his Audience, *That the Church of England was no true Church: That there was little of Christ's Institution in the Publick Ministrations, and that all good Christians were obliged to separate from those impure Assemblies: That their next Step was to join him and his Disciples: That here was nothing but what was pure and unexceptible evidently inspired by the Spirit of God, and refined from all Alloy and Profanation.*

These Discourses prevailed on the Audience, and Precept was brought up to Practice. And now his Disciples, called Brownists, formed a new Society, and made a total Defection from the Church. For the Men of this thorough Reformation, refused to join any Congregation in any publick Office of Worship. *This was the first gathering of Churches, the first Schism in Form which appeared in England.*

However Brown was dealt with more gently than the Prisoners abovementioned, or any of those he had perverted. Being convicted before Doctor Freake, Bishop of Norwich, and other Ecclesiastical Commissioners, he not only maintained his Schism, but misbehaved himself to the Court. Upon which he was committed to the Custody of the Sheriff of Norwich. But the Lord Treasurer Burleigh, being his near Relation, procured his Enlargement. This Nobleman who endeavoured his Recovery, ordered him to come to London. And Bishop Whitgift being now at Lambeth, he was referred to him for better Instruction. This Prelate by the Dexterity of his Management, and the Force of his Reasoning, brought him at last to a tolerable Compliance with the Church of England. Being dismissed by the Archbishop, the Treasurer sent him to his Father in the Country, with Directions for gentle Usage. But here instead of disengaging himself from the remaining Scruples, his Heterodoxies revived. He relapsed to his former Condition, and proved utterly incorrigible; upon which the old Gentleman discharged him the Family. At last after a great deal of Ramble, and suffering for his Obstinacy, he recovered himself so far as to take a Benefice with Cure of Souls in Northamptonshire. 'Twas Lindfell, Bishop of Peterborough's Discipline, which brought him to his Recollection. The Bishop being informed that Brown lived at Northampton, and was busy in promoting his Sect, sent him a Citation to come before him. He refused to appear. Upon which Contemptuous Omision he was excommunicated. Brown being deeply affected with the Solemnity of this Censure made his Submission, moved for Absolution, and received it; and from this time continued in the Communion of the Church. He lived and died at last in Northampton Goal, but not upon the Score of Nonconformity, but breach of the Peace. Brown lived to the Year 1630. But though Brown conformed himself, he was very unhappy in other Respects. For 'twas not in his Power to close the Schism, nor retrieve those he had misled: Many of his Followers continued unreclaimed, and suffered Death for their Misperuasion.

On the 17th of September in the same Year 1583, John Lewis was burnt at Norwich, for denying the Divinity of our Saviour and other Heresies.

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1583.
25 Eliz.
Proceedings
against
Brown the
Author.

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One burnt
for Heresy.

1583.
24 Eliz.

Two executed for maintaining the Pope's Supremacy.

Sommerville charged with High Treason.

On the other Hand, *John Slade*, School-master, and *John Body* Master of Arts, were both convicted of High Treason, in maintaining the Pope's Supremacy: *Slade* being executed on the 30th of October at *Winchester*, and *Body*, on the 2d of November at *Andover*.

In the following Month of December, *John Sommerville*, a young Hot-headed Popish Zealot, was so distracted by the daily Libels published against the Queen, that he made a Journey on purpose from his House in *Warwickshire* to *London*, in order to kill her Majesty; and was so enraged against all Protestants, that he

set upon one or two on the Highway with his drawn Sword. Being apprehended, he confessed he would have killed the Queen with his own Hands; and accused his Wife's Father *Edward Arden*, Esq; of a very ancient Family in *Warwickshire*, and his Lady, together with his own Wife, and one *Hall*, a Priest, as engaged in the like traitorous Design. *Sommerville* three Days after he was taken, hanged himself in Prison. His Father-in-Law *Arden*, was tryed convicted and executed as a Traytor. But the Women were pardoned; as was *Hall* the Priest, for discovering *Sommerville's* Design.

1583.
24 Eliz.
Hangs himself.

Arden executed for the same Conspiracy.

Proceedings against FRANCIS THROGMORTON, Esq; for High Treason 21 May. Anno 1584: 26 ELIZ.

1584.
26 Eliz.

The Charge against him:

The Evidence.

THE Prisoner was Indicted on the Statute of 25 Edward III, for conspiring the Death of the Queen, adhering to her Enemies, and inviting over Foreigners to invade the Kingdom, and join the Malecontents here.

The principal Evidence against him, was a List or Catalogue of the Names of the most convenient Harbours in England for landing foreign Forces: And the Names of such Gentlemen as professed the Popish Religion, in a Letter he was supposed to send to the Queen of Scots.

The Prisoner said, he had never seen these Lists, and that they were some way conveyed into his Cabinet, on purpose to ruin him. He said, the same when he was examined upon the Rack, but being threatened with the Rack again, he declared, That going some Years before to the *Spaw*, he had consulted with *Jeney* and Sir *Francis Inglefield*, how England might be best attempted by Foreigners, and the Form of Government altered. And to that end he had taken those Notes of the Havens and the Gentlemens Names: That *Morgan* had given him to understand by Letters out of France, that the Catholick Princes were now resolved that England should be invaded, and the Queen of Scots set at Liberty under the Conduct of the Duke of *Guise*; who now wanted nothing but Money, and an Auxiliary Army to be ready in England: That to

procure these things *Charles Paget*, was sent privily into *Suffex*, under the Counterfeit Name of *Mope*, where the Duke of *Guise* purposed to land; that he had imparted the matter to *Mendoza*, and shewed him the Names of the Havens, and of the Gentlemen, who had already been made acquainted with them by the Conspirators. He denied not but he had promised his Assistance, and withal told *Mendoza*, what Gentlemen he might safely treat withal about these things, as being a publick Person, which he being a private Man, could not do without Danger: And that he concluded with him of a way how certain principal Men of the Catholicks might, as soon as the Foreign Forces should arrive, raise Men in the Queen's Name to join with the Foreigners.

Being charged with this Confession at his Trial at *Guildhall*, he positively denied every particular, and affirmed that they were vain Fictions of his own, purposely utter'd that he might not be put again to the Rack; and openly accused the Queen of Cruelty, and his Examiners of false Dealing: Imagining he should escape by reason of the Distance of Time between the Crime committed and his bringing to Trial. For in the 13th Year of Queen *Elizabeth* several Crimes were reckoned up as High Treason, for which yet no Man was to be called in Question, unless the Delinquent were charg'd there-

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with,

1584.
26 Eliz.

His Confession extorted by the fear of the Rack produced against him.

1584.
16 Eliz.Convicted
and executed.Carter executed
for High Treason.Fenn, &c.
executed for
High Treason.Camden's
Observations
on these Prosecutions.

with, within six Months after the Fact committed; and the Thing were proved by the Witness and Oath of two Men, or by the Party's voluntary Confession, without Constraint or Violence. But this Time was long since expired, and therefore (he said) he was not to be called in Question. But the Judges shew'd, that the Matters objected against him, were not of that Sort there mentioned, but that he was indicted upon an antient Statute of High Treason, made in the Reign of *Edward III*, which admitted of no Circumscription of Time or Proof.

And according to this Law Sentence of Death was pronounced against him. Being afterwards persuaded, he cast himself upon the Queen's Mercy, and in Writing confessed again at large all those things in a manner which he had done before: Which yet (such was his Inconstancy) he again denied at his Execution.

About the same Time *William Carter*, a Bookseller, was tried, convicted and executed for High Treason, in procuring a seditious Libel, entitled, *A Treatise of Schism*, to be printed.

James Fenn, *George Haddock*, *John Munden*, *John Nutter* and *Thomas Hemmerford* also were condemned and executed as Traitors for maintaining the Pope's Supremacy.

Mr *Camden* speaking of these Prosecutions relates, That Mr *Throgmorton* was no sooner committed, but *Thomas Lord Paget*, and *Charles Arundel* a Courtier privately fled the Land, and withdrew themselves into *France*. Where with others devoted to the *Romish* Religion they heavily bewailed and complained amongst themselves, That the Queen was without any Fault or Desert of theirs alienated from them by the subtil Artifices of *Leicester* and *Walsingham*: That they were unworthily disgraced and ignominiously used: That strange kind of Tricks and Cheats were invented, and secret Snares so closely laid, that they must whether they would or no, and before they were aware, be involved in the Guilt of High Treason; and that there was at home no hope at all of any Safety. And indeed there were at this Time (says Mr *Camden*) some subtil ways taken to try how Men stood affected. Counterfeit Letters were privately sent in the Name of the Queen of *Scots*, and the Fugitives, and left in Papists Houses. Spies were sent abroad up and down the Country to take Notice of

People's Discourse, and lay hold of their Words. Reporters of vain and idle Stories were countenanced and credited. Hereupon many were brought into Suspicion. And among the rest *Henry Earl of Northumberland*, and his Son *Philip Earl of Arundel*, was confined to his own House, his Wife committed to Sir *Thomas Shirley's* Custody. *William Howard*, the Earl's Brother, and *Henry Howard* their Uncle, the Duke of *Norfolk's* Brother, were several Times examined about Letters from the Queen of *Scots*; from *Charles Paget*; and about one *Mope* then unknown. And their Prudence and Innocence could hardly protect them. Neither yet are such Ways for Discovery, and so easy giving Credit to be esteemed altogether vain, where there is a Fear for the Prince's Safety. Certain it is, at this time an horrid Piece of Popish Malice against the Queen discovered itself. For they set forth Books, wherein they exhorted the Queen's Gentlewoman to act the like against the Queen as *Judith* had done with Applause and Commendations against *Holofernes*. The Author was never discovered, but the Suspicion lighted upon *Gregory Martin* an *Oxford* Man, one very learned in the *Greek* and *Latin* Tongues.

And whereas the Papists usually traduced the Queen as rigid and cruel, she (who was always very careful to leave a good Name and Memorial behind her) was highly offended with the Inquisitors that were to examine and discover Papists as inhumanly cruel towards them, and injurious to her Honour. Insomuch as they thought it necessary to excuse themselves by a publick Writing. Wherein they protested, that the Priests were more favourably dealt withal than they deserved; that they were never once questioned for their Religion; but only for dangerous Contrivances against their Prince and Country; and that upon vehement Suspicion and probable Arguments and Evidence: That *Champion* was never rack'd so, but that he was presently able to walk, and subscribe his Confession: But *Briant* obstinately refusing to speak or write who it was that penn'd these obscure Papers, found about him, was indeed denied Food till such Time as he asked it in Writing. These Things did not satisfy the Queen, who commanded the Inquisitors to forbear Tortures, and the Judges to refrain from putting such Offenders to Death

1584.
16 Eliz.

Death. And not long after she commanded thirty Priests, some of which were condemned and others in Danger of the Law, to be transported out of England: Amongst whom those of chiefest note were, *Gasper Heywood*, Son to that famous Epigrammatist, who was the first of all the Jesuits that came into England: *James Bosgrave* of the Society

of *Jesus* also: *John Heart* the most learned of them all: And *Edward Rish-ton*, that impious and ungrateful Man to his Prince, to whom tho' he owed his Life; yet he soon after set forth a Book, wherein he vomited out the Poison of his Malice against her. Thus far Mr *Cambden*.

Proceedings against HENRY PERCY Earl of Northumberland, for High Treason. 1585. 27 ELIZ.

THE Charge against the Earl was, That he had entred into a treasonable Conspiracy with *Francis Throgmorton*, Esq; the Lord *Paget*, and the Duke of *Guise*, to promote an Invasion of her Majesty's Realm, and set the Queen of *Scots* at Liberty. On Suspicion whereof the Earl was committed to the Tower, and was found dead in the Chamber where he was confined on the twenty first of *June*, 1585. The Coroners Inquest having view'd the Body found, That the said Earl, on the sixteenth Day of *June* in the 27th Year of the Queen, did prepare a certain Dag of Iron and Steel, of the Value of ten Shillings; and also certain Bullets of Lead, and a certain Quantity of Gunpowder contained in a certain small Box; and caused the foresaid Gun, the Bullets of Lead and the Gunpowder to be brought into the foresaid Chamber, unto him the said Earl of *Northumberland*; and to be delivered to the same Earl by the Hands of *James a Price*, Yeoman, to execute his devilish and felonious Purpose and Intention.

Which Dag aforesaid, the foresaid Earl caused secretly to be hidden in a certain Mattress under the Bolster of his Bed in the Chamber aforesaid. And then and there the foresaid twenty first Day of *June* in the 27th Year aforesaid, between the Hours of twelve and one in the Night of the foresaid 21st Day of *June*, thinking and intending to prosecute and follow his devilish Intentions and Purpose aforesaid, did bolt the Door of the foresaid Chamber, lest any Man should foresee or

withstand his devilish, felonious and malicious Intent; And the said Door of his foresaid Chamber, being so bolted, the same Earl then and there into his Bed himself did lay, and upon this afterward, that is to say the foresaid twenty first Day of *June* in the 27th Year aforesaid, about the Hours aforesaid, within the Tower of *London* aforesaid, situate and being in the Parish of *Allbaltows Barking* aforesaid, in the Ward of the Tower of *London* aforesaid, not having the Almighty God or his Fear before his Eyes; but being moved and seduced by the Instigation of the Devil of his Malice afore pre-pensed, did take up into his Hands, the foresaid Dag of Iron and Steel, then and there made ready, charged with Gunpowder and three Bullets of Lead, and the foresaid Dag to the left Part of his Breast, near unto the Pap of the same Part of his Breast, then and there feloniously and devilishly did put, and upon the same Part of his Breast the foresaid Dag did discharge.

By reason of the Violence of which Gunpowder and of the foresaid three Bullets of Lead, the foresaid Earl into his Body and Heart, and thro' his Chine bone, even into his right Shoulder, himself then and there with the foresaid Bullets of Lead, feloniously and voluntarily did strike; giving unto himself then and there one mortal Wound of the Depth of twelve Inches, and of the Breadth of two Inches, of which mortal Wound aforesaid the foresaid Earl within the Tower of *London* aforesaid, the Day, Year, Parish and Ward

1584.
15 Eliz.

thirty
priests ba-
rished.

1584.
15 Eliz.

1585.
27 Eliz.

The Charge
against him.

Found dead
in the Tower.

The Verdict
of the Coro-
ner's Inquest.

1585.
27 Eliz.

Earl of *Nor-*
thumberland.

1585.

27 Eliz

The Earl's
Treasons
communica-
ted to the
Peers after
his Death.

Ward aforesaid instantly died. And so the Jury doth say upon their Oaths aforesaid: That the foresaid Earl the Day, Year and Place above-written of his devilish Intent aforesaid, and of his Malice before prepenfed, feloniously and voluntarily himself did kill and murder in Manner and Form aforesaid, against the Peace of our Sovereign Lady the Queen her Crown and Dignity.

Three Days after this Verdict, at a full meeting of the Peers in the Star Chamber, Sir Thomas Bromley, the Lord Chancellor acquainted them; that the Earl had been engaged in traitorous Designs against his Prince and Country; which when he found once to be discovered, he had lain violent Hands upon himself, being terrified with the guilty Conscience of his Offence. But to satisfy the Multitude, who are always prone to believe the worst in such Cases, he commanded the Attorney General and the Queen's Council, to shew plainly the reasons why the Earl had been kept in Prison, and the manner of his Death. Hereupon Popham the Queen's Attorney General, beginning at the Rebellion in the North sixteen Years before, shewed out of the publick Records, that he had been called to his Tryal about that Rebellion, and the Design for the delivering the Queen of Scots; and that he had acknowledged his Fault, submitted himself to the Queen's Mercy, and was fined five thousand Marks. But that the Queen (out of her Clemency) had not exacted one Farthing thereof; and after the Execution of his Brother for the same Crime, had confirmed him in the Honour of Earl of Northumberland. That he notwithstanding all this, had engaged himself in new Designs for delivering the Queen of Scots, the Conquering of England, and the Destruction of Religion and the Queen. That Mendoza the Spaniard, had given Notice to Throgmorton, that Charles Paget, under the Counterfeit Name of Mope, had secretly conferred with him in Suffex about these matters; and that the Lord Paget had signified the same things in a manner to Throgmorton. That the same also did appear by the Papers of Chreiston a Scottish Jesuit; and that Charles Paget had told the same things to William Shalley, at his return out of France.

Then Egerton, the Solicitor General, argued notably from Circumstances, and

the Earl's extraordinary Care to conceal the Business, that he was Guilty thereof. Viz. That the Earl when no Man in England could accuse him of these things but only the Lord Paget (with whom Throgmorton was very familiar) within few Days after Throgmorton was taken, provided a Ship by Shelley's means for Paget, wherein he went over into France: That when Throgmorton had began to confess some things, the Earl removed from London to Petworth; and sending for Shelley, told him he was fallen into Danger of his Life and Estate; and prayed him to conceal all, and to send such out of the way as were privy to the Lord Paget's Departure, and the coming of Charles Paget: Which was presently done, and he himself sent his Man aside, whom he had employed to Charles Paget. The Solicitor added, that while he was in Prison, he had by corrupting his Keepers, often dealt with Shelley to understand what he had confessed: That after Shelley had let him know by a Woman which was secretly employed as a Messenger betwixt them, that he could conceal things no longer; that their Conditions were not alike. For himself was to undergo the Rack; so was not the Earl in respect of his Place and Quality; and had sent him in Writing what Passages he had confessed. The Earl fetched a Sigh! and forthwith said (as Pantin who waited on him in his Chamber confessed) that he was now undone by Shelley's Confession.

After all this the manner of Death was related from the Evidence of the Inquest, the Testimony of the Lieutenant of the Tower, some of the Warders, and Pantin his Servant. And therefore it was concluded, that he had with his own Hands murdered himself out of a fear, lest his Family should be attainted and utterly ruined.

About the same time, (Viz.) 5th of July, Thomas Aufield, a Popish Priest, and Thomas Welley, a Dyer, were convicted of Felony, for publishing a Seditious and Scandalous Libel, reflecting on the Queen and her Administration; for which they received Sentence of Death, and were executed the Day following.

On the 19th of January 1585-6, Nicholas Devereux, and Edmund Barber, Popish Priests, were convicted of High Treason in coming to England, and remaining here forty Days contrary to the Statute; and were executed

Two executed for publishing a Seditious Libel.

Two popish Priests executed for remaining in England.

1585.
27 Eliz.

Two more
executed
for the same.

Elks execu-
ted for coun-
terfeiting the
Queen's Sign
Manual to a
presentation.

as Traytors, on the 21st of the same Month.

William Thompson alias *Blackburn*, and *Richard Lea* alias *Long*, Popish Priests, were condemned and executed for the like Treason at *Tyburn*, on the 18th of *April* 1586. And on the 18th of *June* following, *Henry Elks*, B. A. was convicted of Counterfeiting the Queen's Sign Manual, to a Presentation of the Parsonage of *All Saints* in *Hastings*, directed to

the Archbishop of *Canterbury*, or his Commissary, in order to get Institution to the said Parsonage; for which the said *Elks* was condemned as a Traytor, and executed at *Tyburn*.

On the third of *October*, *J. Adams*, *J. Lowe*, and *Richard Dibdale*, Popish Priests, were executed for High Treason, in remaining in *England* contrary to the Statute.

1585.
27 Eliz.

Three Po-
pish Priests
more exe-
cuted for
remaining
in *England*.

Proceedings against PHILIP HOWARD, Earl of Arundel, the late Duke of Norfolk's eldest Son, for attempting to go beyond Sea without the Queen's Leave 1585.

27 ELIZ. and afterwards for High Treason.

32 ELIZ.

Earl of
Arundel.

1585.

32 E.
in Case.

THE Title of Duke of *Norfolk* being lost by the Attainder of *Thomas Duke of Norfolk*, Anno 1572, the abovesaid *Philip* his eldest Son, was called Earl of *Arundel*, as owner of *Arundel Castle*, by descent from his Mother; it having antiently been adjudged in Parliament to be a local Dignity; so that the Possessors thereof should enjoy that Title of Honour. Whereupon he had by that Appellation summons to the next ensuing Parliament, began at *Westminster* 16 January, 23 Elizabeth, and after that in the same Parliament, was by a special Act restored in Blood. But not long after this by the Artifices of *Robert Earl of Leicester*, and Secretary *Walsingham*, for the entrapping of those eminent Persons, who were of the Romish Religion, counterfeit Letters being dispersed, this Earl *Philip* was confined to his own House, as was also *Henry Earl of Northumberland*. By reason whereof, and because he was shortly after much terrified, with the Severity of the Laws, then made against Jesuits and Priests. And in regard he stood much devoted to the Religion of the Church of *Rome*, he resolved to betake himself to an austere and retired Life beyond the Seas: But in the first place to represent his Grief to the Queen by a Letter, which he determined should be delivered unto her after his Departure; wherein he complained of the Malice of his power-

ful Enemies, which he could not withstand, and their triumphing over his Innocency: Putting her also in mind of the unhappy Fate of his Ancestors; his Great Grandfather suffering in like manner; his Grandfather also losing his Head upon a slender occasion; and his Father who never bore any evil thought to his Prince, yet being circumvented by his Adversaries, came to the same end: And therefore that he might not perish, but live retired for his Soul's Health, he left his Country, but not his Loyalty to her his Sovereign.

But before this Letter could be delivered, being gone into *Suffex* there to take Shipping in an obscure Creek, what through the Treachery of some of his Servants, and the Master of the Ship, he was apprehended and committed Prisoner to the *Tower*. And being thus imprisoned, a Charge was brought against him into the Star-Chamber, that he had supported Romish Priests contrary to Law: As also that he held Intelligence with Cardinal *Allen*, and *Parson's* the Jesuit, the Queen's Enemies: Likewise that he had, by a publick Writing, declined the Justice of the Realm, with purpose to be gone. Whereupon though he professed his Allegiance to the Queen, and Love to his Country, excusing himself for the Ignorance of the Laws, through his Zeal to Divine Contemplations; and submitted himself

1585.
27, 32 E.

The first
Charge a-
gainst him.

Two execu-
ted for pub-
lishing a Se-
ditionous Libel

Two popish
Priests exe-
cuted for
remaining in
England.

1585.
27, 32 Eliz.
Fin'd ten
thousand
Pounds and
Imprisoned.

The second
Charge a-
gainst him.

to the Censure of the Court, They fined him ten thousand Pounds, and doomed him to Imprisonment during the Queen's Pleasure. And, as if all this had not been enough, upon Suspicion that he favoured the Spaniards in 31 Elizabeth, he was brought to his Tryal by his Peers in Westminster-Hall, before Henry Earl of Derby, Lord High Steward, for High Treason.

The Substance of his Charge was, That he had contracted a strict Friendship with Cardinal Allen, and Parsons the Jesuit, and other traitorous People, who had conspired the Ruin of their Prince and Country, by stirring up Foreigners, as well as Subjects for restoring the Romish Religion. Also that he had sent Letters to Cardinal Allen by Weston (alias Burgesse) the Priest for advancing the Catholick Cause, and upon that Account, resolved to quit the Realm: That he was Privy to the Bull of Sixtus Quintus the Pope, whereby he had excommunicated the Queen, and exposed this Realm to the Spaniard: That being a Prisoner in the Tower, he had caused Mass to be

celebrated, for the good Success of the Spanish Fleet, and likewise for that Purpose had conceived private Prayers.

To which he pleaded Not Guilty; but being found Guilty, had Sentence of Death pronounced against him (being then but Thirty three Years of Age). Being carried back to the Tower, and his execution forborn, He totally applied himself to his Devotions, and to an austere and strict Course of Life, until the 19th of November, Anno 1595. (30 Eliz.) That he there died, leaving Issue by Anne his Wife, Daughter of Thomas, and Sister and Coheir to George Lord Dacres of Gillestland, Thomas, his only Child.

This Thomas was restored in Blood, in the Parliament held at Westminster, 1 Jac. and to all such Titles of Honour, and Precedence as the before specified Philip Earl of Arundel his Father lost by his Attainder: As also the Honour, State and Dignity of Earl of Surrey, and to such Dignity of Baronies, only as Thomas late Duke of Norfolk his Grandfather lost by his Attainder.

1585.
27, 32 Eliz.

He is con-
victed and
condemned.

Dies in the
Tower.

Cartwright,
&c.

Proceedings against THOMAS CARTWRIGHT, EDMUND SNARE, ANDREW KING, BUDLOW PAINE, and other Puritans. Anno 1588. 30 ELIZ.

1588.
30 Eliz.
Their Case.
A Bill pre-
sented against
them in the
Star Cham-
ber.

THE Puritans endeavouring to make disturbances in the Kingdom, while the Spanish Armada was on the Coast, occasioned the abovesaid Cartwright, Snare, and several more of their Chiefs to be committed; and prosecuted in the Star Chamber: Where the Attorney General exhibited a Bill against them; setting forth, that these seditious People had formed a Government of the Church, consisting of Doctors, Pastors, Elders, Deacons, and such like: That a new Form of Common Prayer, and Administration of the Sacraments, and Church Discipline comprized in a Book entitled, *Disciplina Ecclesie sacra, Dei verbo Descripta* had been lately set forth, together with other Books and Pamphlets of a resembling Nature, That the Defendants

had unlawfully and seditiously assembled themselves together concerning the Premises. That in those Assemblies they had treated of and concluded upon sundry seditious Articles in allowance of the same Books, and of the Matters therein contained: That in some of those Assemblies the Defendants had subscribed those Articles, and put part of them in execution: That for these Misdemeanours, they had been brought before the High Commissioners, where they refused to take the Oath for answering such Interrogatories as were to be put to them on her Majesty's behalf: That under pretence of Discipline and Charity, they claimed a Power of intermeddling in all sorts of Causes whatsoever: And that they had persuaded sundry of her Majesty's

1588.
30 Eliz.

Candry

1588. 30 Eliz.
 sty's Subjects to refuse the taking an Oath to answer any Matter that might concern the unlawful Proceedings and Doings of themselves, their Brethren and Teachers.

To this Bill of Complaint, the Defendants in their Answer confessed their refusing to take the Oaths before the Commissioners; and to the rest of the most material Matters made an evasive and insufficient Answer. This Answer being referred by the Court to the Consideration of the Chief Justice, the Chief Baron, and Mr Justice Gawdy, these Reverend Judges marked the Questions, where their Answers were short and unsatisfactory. Notwithstanding this Resolution of the Judges, their next Answer was little less imperfect: And when Interrogatories were afterwards put to them upon the Parts of the Bill, they declined making Answers to the main Questions. The Judges at the instance of the Court, pointed out more distinctly the Interrogatories which ought to have been clearly and directly answered. But the Defendants notwithstanding being examined upon these Interrogatories refused to Answer.

The Questions put to them were these,

Where the said Assemblies were made? When and how often? Who were at the same Assemblies as well as themselves? What Matters were treated of in the same Assemblies? Who made or set forth, corrected, or reformed the said Book of Discipline, or any part thereof? Who subscribed or submitted themselves to the same Book, or to the Articles therein concluded, besides the said Defendants? Whether in a Christian Monarchy the King is to be accounted among the Governours of the Church, or among those which are to be governed by Pastors, Doctors or such like. Whether in a well ordered Church, it is lawful for the Sovereign Prince to ordain Orders and Ceremonies appertaining to the Church? Whether Ecclesiastical Government established by her Majesty's Authority, within the Church of England, be lawful or allowed by the Word of God? Whether the Sacraments ministered within her Majesty's Dominions, as they be ordained by the Book of Common Prayer to be administered, be Godly, and rightly ministered.

The Nonconformists being somewhat severely handled at this time by the High Commission, endeavoured to dis-

arm that Jurisdiction. To this Purpose they framed Objections against the Authority and Proceedings of the Court. The occasion was this, One *Candrey Parson* of *South Lufnam* in the County of *Rutland*, had been prosecuted in the High Commission, for preaching against the Book of Common Prayer, and refusing to officiate in divine Service, pursuant to the Directions of the Rubrick. These Articles being proved upon him, he was deprived by the Bishop of *London*, and some other of the Queen's Commissioners for Ecclesiastical Causes. He acquiesced for four Years in the Judgment of the Court. But now incited, as it is thought by some Lawyers of *Traver's* Party, he resolved to Question the Authority of that Commission, and by consequence the Legality of his Deprivation. To this purpose he brings an Action of Trespass against one *George Atton* for breaking his Close, which was parcel of the aforesaid Rectory. The Jury gave a special Verdict; that is, they found the matter of Fact alledged in the Action true. But whether it was justifiable or not, this they referred to the Judgment of the Court.

The Cause was argued at length by the Council at the Bar, and by the Bench, who having consulted the Judges of the other Courts, came at last to this Resolution; That the Act of 1 *Eliz. Cap. II.* concerning Ecclesiastical Jurisdiction, was only Declaratory, and does not give any new Jurisdiction to the Crown, but that which in Truth was, or of Right ought to be by the ancient Laws of the Realm, Parcel of the King's Jurisdiction, and united to his Imperial Crown; and which lawfully had been, or might have been exercised within the Realm before. It was resolved farther by all the Judges, That if the Act of 1 *Eliz. Cap. I.* had never been made, that the King or Queen of *England*, for the time being, may make such an Ecclesiastical Commission (as was in Force when the Cause was argued) by the ancient Prerogative and Law of *England*. Their Ground is, That by the ancient Laws of this Realm, the Kingdom of *England* is an absolute Empire, consisting of one Head, which is the King: And that this Kingly Head is furnished with Plenary Power, Prerogative, and Jurisdiction, to render Justice to every part of this Body, in all Causes Ecclesiastical and Temporal.

The

1588.
30 Eliz.

The Puritans miscarrying in *Candry's* Case, made a more direct Attack upon the High Commission, and the Bishops Courts. They complained in Print, that the Queen could not convey that Authority, which was exercised by the High Commissioners, and that they had no Power to tender the Oath *ex Officio*. And that the Spiritual Courts were only to take Cognizance of Testamentary and Matrimonial Causes: To this the *Civilians* replied, That to contest the Authority vested in the Queen by Act of Parliament was downright Invasion of the Prerogative Royal and subversive of the Government. And as for the ordinary Episcopal Courts they had not exceeded their Bounds, and from hence they proceeded to a defence of the Oath *ex Officio*. In this Controversy Dr *Richard Cofins* Dean of the Arches, distinguished himself in a learned Tract, entitled, *An Apology for Proceedings in Courts Ecclesiastical, &c.*

Notwithstanding the misfortune of the Combat, the Puritans revived the Cause in a Book called, *A Petition to her Majesty*. The design of this Pamphlet was to persuade the People, that the Ecclesiastical Government ought to be changed, and the Presbyterian Discipline set up: That this latter was practiced in the Primitive Church, and commanded to be continued through all Ages: That the Nonconformists had done nothing against the Statute of 23 *Eliz. cap. II.* and that *Udal* was illegally condemned: That the Abettors of the Consistory are unjustly charged with Innovation and Disloyalty. After this the Author makes it his Business to draw an Odium upon the *English* Hierarchy.

By these publick Challenges the Queen was fully convinced the Puritans were

not to be governed by Gentleness and Connivance, and that nothing but Fear and Impotence would make them sit down and be quiet. To cure the stubbornness of their Temper, she provided a harsher Remedy in the next Parliament.

But *Cartwright* either out of Caution or Conviction, began to relax a little, and gave way to prudential Considerations. Archbishop *Whitgift* being informed, this leading Nonconformist was coming about, resolved to encourage his Disposition. To this purpose he solicited the Queen in his behalf, procured him his Liberty, and her Majesty's Pardon. The Archbishop likewise gave him leave to settle at *Warwick*, where he was Master of the Hospital founded by the Earl of *Leicester*. Here he had the Liberty of Preaching, upon Condition that he should neither Write, Preach or Act against the Constitution of the Church of *England*. *Cartwright* answered the Terms, and kept within the Bounds prescribed. However the Queen was not pleased with his being so much considered, and thought the Archbishop had gone too far in his good Nature. But *Whitgift* conceived *Cartwright* might deserve more Indulgence than *Travers*, though both of them were ordained in a foreign Communion. For *Travers* had never any other Orders, than those he received by the Presbyters at *Antwerp*. But *Cartwright* had a much better Conveyance of his Character, and was Canonically ordained in the Church of *England*. To give him his due says Mr *Collier*, he was not ungrateful for the Favours received: For from this time onwards, he treated the Archbishop with a suitable Regard, and continued quiet and inoffensive to his Death, which happened about ten Years after.

1588.
30 Eliz.

Cartwright
becomes
formable
and is par-
doned.

1590.
32 Eliz.
The Ch
ainst

Proceedings

Proceedings against BRIAN O-RORK, an Irish Lord, for High Treason at the King's Bench Bar Westminster.
28 October 1590. 32 ELIZ.

1590.
32 ELIZ.
The Charge
against him:

THE Indictment charged the said Brian O-Rork with treasonably conspiring to depose and destroy the Queen, and overturn the Government in Ireland.

That he had incited Alexander Mac-Conel; and Donall Mac-Conel, to raise Forces against her Majesty in Ireland, and aided and abetted them in their Rebellion.

That at Dromaber in the said Kingdom, he had caused the Picture of a Woman to be made, on which he wrote the Queen's Name, and caused it to be dragged through the Kennels at a Horse's Tail, in Contempt and Derision of her Majesty; and afterwards caused his Soldiers to hack the Picture in pieces, uttering divers traitorous Words at the same time.

That he had harboured and afterwards conveyed to Spain several Spaniards, her Majesty's Enemies, that were cast on the Irish Shoar in the Year 1588, and received Letters from the King of Spain, thanking him for the kind Entertainment he gave them: And that he had caused several Towns in Ireland to be burnt and plundered, and her Majesty's faithful Subjects murdered: That the said O-Rork flying into Scotland, incited the Scots to join his Forces against those of her Majesty's in the Kingdom of Ireland; and promised the King of Scots if he would suffer his Subjects to serve under him to bring the Kingdom of Ireland under his Dominion. And lastly that the said O-Rork declared when he was Prisoner in the Tower, that if the Spaniards had come to Ireland as they did to England in the Year 1588, He would have done them Service, and Ireland would have been their own.

The Indictment being explained to the Prisoner by an Interpreter (for he did not understand English) he was so strangely Insolent as to refuse the submitting him-

self to a Trial by Twelve Men, unless a longer time were allowed him, and good Council also appointed him. And He demanded likewise, that the Impeachments sent out of Ireland might be delivered into his Hands, and the Queen herself manage the Trial in Person. When the Lord Chief Justice had answered him by an Interpreter, That if he refused in plain terms to take his Tryal by a Jury of twelve Men, they were obliged however by the Laws of England, to bring in their Verdict according to the Articles of Indictment, He made no other Answer than this: That they might even do as they pleased. Sentence of Death being passed upon him, he suffered as a Traytor some few Days after at Tyburn, without the least touch of Remorse for his Crime, but ridiculed Meliery Creak, Archbishop of Cassels, who ministred Advice and Comfort to him in the Irish Tongue; and charged him as a Man of unsteady Principles and a lewd Life, calling him a kind of Apostate from the Franciscan Order.

This Brian O-Rork, Mr Camden relates, was a great Lord in the Country of Brinn, descended from one of the antient Kings of Ireland; That observing how Mac Mahon and other Noblemen of that Kingdom had been oppressed by the English Governours; and apprehending he should sooner or later be dealt with as his Neighbours had been, broke out into Rebellion; but being defeated by Sir Richard Bingham Governor of Connaught he fled to Scotland; and upon the Queen's demanding him, the King delivered the said O-Rork into her Hands; declaring that He considered all her Majesty's Enemies as his own.

In the Month of February Harrington, a Popish Priest was convicted and condemned for High Treason, in remaining in England contrary to the Statute; and afterwards executed as a Traytor

1590.
32 ELIZ.

He refuses to plead.

And is condemned and executed.

Some Account of O-Rork.

Harrington a Popish Priest executed with great Barbarity.

1590.
32 Eliz.

Traytor at Tyburn in a barbarous manner, being cut open while he was alive inſomuch that he ſtruggled with the Executioner when he was about to embowel him. And it ſeems it was the common practice in this Reign to execute the Sen-

tence of High-Treafon with the utmoſt Rigour, diſmembriſing and ripping up the Priſoner while he was in full Life; but this Piece of Barbarity has been diſuſed of late Years, and the Criminal ſuffered to hang till he is dead.

1590.
32 Eliz.

Hacket.

Proceedings againſt WILLIAM HACKET for High Treafon.

1590. 32 ELIZ.

1590.
32 Eliz.The Charge
againſt him.

THE Priſoner William Hacket was arraigned upon two Indictments, the Firſt charges him with proclaiming that Queen Elizabeth was not Queen of England: And the ſecond with defacing her Maſteſty's Arms, and ſticking a Dagger through the Heart of her Picture, with other Overt Acts manifeſting his treaſonable Imagination.

Confefſed,
and thereup-
on he is con-
demned.

The Priſoner confeſſed the Facts, but made his Hearers terrible, ſays Mr Cambden, at the Blaſphemies he uttered. Whereupon the Court paſſed Sentence on him as a Traytor.

The ſame Writer gives us the following Account of the Priſoner's Behaviour and the Proceedings againſt him, viz.

Some Ac-
count of him.

Hacket was a Fellow of mean extraction, born at Oundle in Northamptonſhire, a very illiterate Man, and as haughty and inſolent as he was ignorant. He was moreover of ſo revengeful a Complection, that pretending to be reconciled to a worthy Schoolmaſter to whom he bore a grudge, he clean bit off his Noſe: And the poor Man deſiring to have it again, that it might be ſewed on whiſt the Wound was green, the report goes, that he ſwallowed it after a moſt ſavage manner. So bitter an Enemy was he to all Goodneſs and Virtue, that he would expoſe and ridicule the ſacred Truths and Doctrines he had heard at Church, and make them the Entertainment of his Cups and Frolicks. After this having ſpent an Eſtate, which he had by his Wife, who was a Widow, he put on a demure Face, and grew a mighty Saint all on a ſuddain. Accordingly he was the moſt conſtant Frequenter of Sermons, and the moſt inquiſitive Searcher of the Scriptures, you ſhall hear of. At laſt he came to manage the Pretences of an inward Call

and ſupernatural Revelation with that Confidence and Dexterity, as to work himſelf into the good Opinion of a Sort of Divines, who were ſtark mad for introducing the Presbyterian Diſcipline after the Geneva Model into England. One of this good Brotherhood was Wigginton, as Brainſick a Teacher as any of the Club, and as ſtanch an enemy to Government. This Man brought Hacket acquainted with Edmund Copinger, a Perſon of a good family, who was likewiſe puffed up with the conceit of being a choſen Veſſel for the Benefit of the Church; and that God had vouchſafed him wonderful Discoveries for reducing the Queen and her Council to a better Senſe of Things, even to the embracing the Geneva Diſcipline. And this he afterwards communicated to one Artbington a great admirer of this Way of Worſhip. For it ſeems ſome of theſe Teachers had before inſuſed it into him, that God did every Day ſtir up one or other of theſe extraordinary Labourers to work in his Vineyard. This he imparted in the great Joy of his Heart to Hacket; who with a Sanctity which he could well enough diſſemble, encouraged the Humour; and by praying *Extempore* and with great Fervours; by Sunday Faſts and by frequent Boaſtings of his Conflicts with Satan, ſwore at the hazard of his Salvation, that all this was true; and brought as a proof thereof ſeveral pretended Revelations and familiar Intercourſes with God; which with many Oaths and Imprecations he likewiſe aſſerted. And he had the good Fortune to find ſo much Credit with the Fraternity, that they conſidered him as a ſpecial Favourite of God Almighty, and a much greater Prophet without all doubt than Moſes or St John Baptiſt. Nay he proceeded

1590.
32 Eliz.

1590.
32 Eliz.

proceeded so far, as to give broad signs that he was appointed as a special Prophet to denounce God's Vengeance against such as slighted his Mercy: And foretold, that the Reign of Papacy was at an end; and that *England* this very Year should be afflicted with three Scourges of Famine, Pestilence and Sword, unless the Discipline of the Lord, (for that was their Cant) and a new Reformation were put in practice. Towards the effecting this, they formed a Charge of Treason against the Archbishop of *Canterbury*, and the Lord Chancellor (their Stiff Opposers) as afterwards appeared by their Letters; and threatened to take them off, if they any way opposed the Schemes of their Novel-Reformers in the Star-Chamber. They endeavoured likewise to stir up the Mob to Rebellion by Seditious Papers and Rhimes: In which they maintained among other Positions, That a true Child of Grace, though a mere Ignoramus, might lawfully teach King's their Duty of Governing; and dethrone the Queen unless she would lend an hand to their blessed Reformation. It may appear from this one Instance, how inveterate an Enemy *Hacket* was to the Queen's Person and Character; that he used to whisper it about, that she had quitted her Title to the Crown; and in a rage struck his Dagger into the Breast of a Picture of hers which was drawn upon a board. Nor was this any wonder at all; forasmuch as he had now wrought himself into the Belief, that God had put the Empire of *Europe* into his Hands; and that therefore he ought to admit of no Corival. He likewise made a shift to persuade *Copinger* and *Arthington* themselves, that they had a more than Prophetical Spirit in them; and were a sort of Angelick Visionaries. They therefore conceiving themselves to be under the influence of a Divine Inspiration, instantly paid him all Homage that could be expected from a King that had dropt down from Heaven; and began to foment Rebellion as fast as they could. In *July* they went to a certain Nobleman, and after having offered him the first Place of Authority next to the Queen, they presented him with the Description of *Hacket's* Life and *Arthington's* Prophecy. But he had something else to do, and so dismissed the Men about their Business. Sometime after they intimated to *Wigginton*, that our

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Saviour had appeared to them the night before, not with the Body which he wears in Heaven, but with that ruling Spirit which was shed on *Hacket* in a more abundant measure than on any other; and that *Hacket* was that very Angel, who should come before the approach of the last Day, with his Fan and Crook to separate the Sheep from the Goats: That he should likewise beat down *Satan*, and pull the Kingdom of *Antichrist* up by the Roots. They then left *Wigginton* and went to *Hacket*, before whom as he sat upon his Bed, they fell down and were seized with a violent Fit of Devotion. *Hacket* got up and joined with them in Prayer earnestly, desiring that the Spirit would direct them to do every thing to the Glory of God, and so went to Bed again. *Arthington* immediately advised *Copinger* to anoint their King with the Holy Ghost, in the Name of the Lord Jesus Christ. *Copinger* fell prostrate, and having with a profound reverence kissed the floor thrice, approached nearer *Hacket*, who put him back, saying, that he need not be anointed by him, since he had an *Unction* from the Holy Ghost already. To confirm which he began in this strain: Do ye my Commandments: Go and declare through the City, that Jesus Christ is come with his Fan in his Hand to Judge the World. If any enquire where he is, shew 'em this place; and if then they will not believe, let 'em come and kill me if they can: As it is most certain that God is in Heaven, so 'tis as true Christ is come to Judgment.

As soon as he had said this, out they went, and proclaimed all the City over; that Christ was come, and what other Fooleries he had given them in Commission; often repeating in a louder Tone, *Repent, Repent*, till they had got as far as *Cheapside*. There being thronged by the Multitude, up they got into a Cart, and what by the help of their Memories, and a written Scroll they had for that purpose, they proclaimed aloud; That *Hacket* was by the Spirit of God made a Partaker of his glorified Nature; and was now come with his Fan to plant the Gospel throughout *Europe*; and to set up a Form of Government and Church-Discipline in *England*. And pointing withal to his Lodging, They declared, that they were two Prophets, the one of Mercy, the other of Judgment,

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32 Eliz.

Hacket's
executed.

Judgment, who were given to *Hacket* as Co-adjutors and Fellow-Labourers in so important a Work. All which they affirmed upon the Salvation of their Souls to be true. They farther declared, that *Hacket* was the first and Supreme Monarch of the Universe: And that all the Princes of *Europe* held their Sceptres as so many Dependents on him; and that therefore he alone claimed an universal Obedience; and as for the Queen that she was to be deposed. In the same Place they fell a cursing the Archbishop, and the Lord Chancellor, as Enemies to the sincere Profession of the Gospel. Hereupon the Throng gathering so fast, that they could not get forward to other Places of the City, to make the same Oration: And being likewise advised by some of their Friends to withdraw, they returned to *Hacket's* Lodgings.

Hacket after his Condemnation was drawn upon a Hurdle to *Cheapside*, crying out all the way in a most dreadful Tone, *Jehovah-Messias! Jehovah-Messias! See the Heaven open? Behold the Son of the most High descending to deliver me? At the Gallows when he was importuned to acknowledge his Sin against God and the Queen, he like an execrable Wretch inveighed against the Queen with a loud boisterous Rudeness: 'O Heavenly God, Almighty Jehovah, 'Alpha and Omega, Lord of Lords, and 'King of King's, God everlasting, Thou 'knowest that I am the true Jehovah 'whom thou hast sent, shew some Miracle 'out of the Clouds to convert these Infidels, and deliver me from my Enemies: But if not I will set the Heaven 'on fire, and with these Hands pluck 'thee from thy Throne: With a great deal more which he uttered to the same*

purpose, and in the same Stile of Blasphemy. Then turning to the Hangman, who was fastening the Rope about him, *Thou Bastard*, (said he) *wilt thou Hang Hacket thy Sovereign?* Having the Rope about his Neck, he lift up his Eyes to Heaven, and with a frightful Grin, said, *Dost thou reward me thus instead of giving me a Kingdom? I come to revenge it.*

In the midst of these loud and horrid Blasphemies, the Halter dispatched him. But the Mob would have had the impious Villain cut down alive; which was afterwards done, his Bowels taken out, and his Body quartered according to Sentence passed on him. *Coppinger* after this starved himself to death in Prison; but *Arbington* expressed his Repentance by a Book he wrote, and was pardoned.

It was not long before the Execution of *Hacket*, that *Francis Ket*, M. A. of *Wymondham* in *Norfolk*, was convicted of Heresy, in maintaining several detestable Opinions in relation to our Saviour, for which he was burnt near the City of *Norwich*.

On the other Hand *Christopher Bales*, a Popish Priest, Anno 1590, was convicted and executed as a Traytor in *Fleetstreet*, for remaining in *England* contrary to the Statute. And *Nicholas Horne*, and *Alexander Blague*, were convicted of Felony, and hanged for relieving the said *Bales*. And in the Year 1591, three Popish Priests were condemned and executed as Traytors, for remaining in *England*; and four others convicted and executed as Felons, for relieving and harbouring them. The Names of five of the Sufferers were *Ironmonger*, *Switben*, *Wells*, *Blaiston*, and *White*, but the Names of the other two I don't meet with.

1590.

32 Eliz.

Ket convi-
cted and
burnt for
Heresy.A popish
Priest ex-
ecuted.Horne and
Blague hang-
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pish Priests
more execu-
ted, and
four Persons
hanged for
harbouring
them.

Proceedings

Proceedings against JOHN PENRY, Clerk, for Felony. *Penry.*
Anno 1592. 34 ELIZ.

1592.
34 Eliz.
The Charge
against him.

THE Prisoner *John Penry*, was arraigned at the *Queen's Bench Bar* upon two Indictments; The first charges him with feloniously writing a Seditious Libel at *Edinburgh* in *Scotland*, in order to incite a Rebellion within the Kingdom of *England*; in which Libel amongst others are the following Words, viz. 'The last Days of your Reign (*Regnum dictæ Domine innuendo*) are turned rather against Christ Jesus and his Gospel, than to the Maintenance of the same: And I have great Cause of Complaint, Madam, (*dictam Dominam Reginam innuendo*) nay the Lord and his Church hath Cause to complain of your Government (*Gubernationem dictæ Domine Reginæ innuendo*) not so much for any outward Injury, as I or any other of your Subjects have received, as because we your Subjects this Day are not permitted to serve our God under your Government (*Gubernationem dictæ Domine Reginæ innuendo*) according to his Word; but are sold to be bond Slaves, not only to our Affections to do what we will, so that we keep our selves within the Compass of established Civil Laws, (*Leges dictæ Domine Reginæ Innuendo*) but also to be Servants to the Man of Sin and his Ordinances. And it is not the Force which we seem to fear, that will come upon us, for the Lord may destroy both you (*dictam Dominam Reginam innuendo*) for denying, and us for slack seeking of his Will, by Strangers. I come unto you with it, if you will hear it, that our Case may be eased; if not, that yet Posterity may know that you have been dealt with; and that this Age may see that there is no great Expectation to be looked for at your Hands (*Manus dictæ Domine Reginæ innuendo*): And amongst the rest of the Princes under the Gospel, that have been drawn to oppose themselves against the Gospel, you (*dictam Domi-*

nam Reginam innuendo) must think your self to be one; for until you see this, Madam, (*dictam Dominam Reginam innuendo*) you see not yourself: And they are but Sycophants and Flatterers whosoever tell you otherwise. Your standing is, and hath been by the Gospel: It is little or smally beholding unto you. For any thing that appeareth, the Practice of your Government (*Gubernationem dictæ Domine Reginæ innuendo*) sheweth, that if you could have ruled without the Gospel, it would have been to be feared whether the Gospel should be established or not: For now that you are established in your Throne, and that by the Gospel, you (*dictam Dominam Reginam innuendo*) have suffered the Gospel to reach no farther than the end of your Sceptre (*Sceptrum dictæ Domine Reginæ innuendo*) limited unto it. And briefly Madam you (*dictam Dominam Reginam Innuendo*) may well see the Foundation of *England*, rooted up; but this Cause (*Causam dicti J. P. & aliorum Schismaticorum & Sectariorum infra hoc Regnum Angliæ innuendo*) will you never see suppressed. And now whereas we should have your Help (*Auxilium dictæ Domine Reginæ innuendo*) both tojoin ourselves to the true Church, and to reject the false, and all the Ordinances thereof, we are in your Kingdom (*Regnum dictæ Domine Reginæ innuendo*) permitted to do neither; but accounted Seditious Men if we affirm either one or the other of the former Points. And therefore Madam, you (*dictam Dominam Reginam innuendo*) are not so much an Adversary to us poor Men, as unto Christ Jesus, and the Wealth of his Kingdom. And Madam (*dictam Dominam Reginam innuendo*) yet thus much we must needs say, that in all likelihood, if the Days of your Sister Queen *Mary* and her Persecution had continued to this Day, this Church of God in *England*, had been

1592.
34 Eliz.

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1592.
34 Eliz.

'been far more flourishing than at this Day it is. And now Madam, (*dictam Dominam Reginam innuendo*) your Majesty may consider what Good the Church of God hath gotten at your Hands (*Manus dictæ Dominæ Reginae innuendo*) even outward Peace, with the absence of Christ Jesus, and his Ordinances, otherwise as great Troubles likely to come, as ever were in the Days of your Sister.'

The second Indictment charges the Prisoner with writing another Seditious Libel at *Edinburgh*, in which are the following Words, *viz.* 'What has *England* answered? Surely with an impudent Forehead she hath said; I will not come near the Holy one; and as for the Building of his House, I will not so much as lift up a Finger towards that Work; nay, I will continue the Desolation thereof: And if any Man speaketh a Word in behalf of this House, or bewaileth the Misery of it, I will account him an Enemy to my State: And as for the Gospel and Ministry of it, I have already received all the Gospels and all the Ministeries that I mean to receive: I have received a reading Gospel, and a reading Ministry; a Pompous Gospel, and a Pompous Ministry; a Gospel and a Ministry that strengthneth the Hands of the Wicked in his Iniquity; a Gospel and a Ministry that will stoop to me, and be at my beck either to speak or to be mute, when I shall think good: Briefly, I have received a Gospel and a Ministry that will never trouble my Conscience with the Sight of my Sins, which is all the Gospels and all the Ministeries that I mean to receive: And I will make a sure Hand, that the Lord's House, if I can chuse, shall be no otherwise edified than by the Hands of such Men as bring unto me the aforesaid Gospel and the aforesaid Ministry: And as for the general State, either of the Magistracy, of the Ministry, or of the common People, (*Magistrat, Ministros, & Populum hujus Regni Angliæ innuendo*) behold nothing else but a Multitude of Conspirators against God, against the Truth, against the Building of his House, against his Saints and Children: And consequently against the Wealth of their own Souls, and puclick Peace and Tranquility of this whole Kingdom. And you shall find amongst this Crew,

(*innuendo Archiepiscopos, Episcopos, &*

Ministros Ecclesiæ hujus Regni Angliæ per Autoritatem Regiam, & Leges & Statuta ejusdem Regni, infra hoc regnum manutent) nothing else but a Troop of Bloody Soul-Murtherers, Sacrilegious Church-Robbers, and such as made themselves fat with the Blood of Mens Souls, and the utter ruin of the Church. And it is now grown, and hath been of long time a common Practise of these Godly Men (*Magistrat, & Judices infra hoc Regnum Angliæ, per dictam Dominam Reginam assignat, & manutent innuendo*) to make of the Statutes ordained for the Maintenance of Religion, and common quietness, a Pit wherein to catch the Peaceable of the Land (*hoc Regnum Angliæ innuendo*): And because our Council (*Concilium privat dictæ Dominæ Reginae innuendo*) may be truly said to delight in this Injury and violent Oppression of God's Saints and Ministers, therefore whensoever the Lord shall come to search for the Sins of *England* with Lights, as *Zephaniah* saith, he will surely visit our Council (*dictum Concilium: dictæ Dominæ Reginae innuendo*) with an heavy Plague; because they are undoubtedly frozen in their Dregs, and persuade their own Hearts, that the Lord will do neither good or evil in the Defence of his Messengers and Children: And then they shall feel what it is to wink at (much more to procure) the Oppression of the Church of Christ: I (*dictum J. P. innuendo*) will not in this place Charge our Council (*dictum Concilium dictæ Dominæ Reginae innuendo*) with that which followeth in *Jeremy*, upon the Place before alledged, namely, that they execute no Judgment; no, not the Judgment of the Fatherless. But this I will say that they cannot possibly deal truly in the matter of Justice between Man and Man: Insomuch as they bend all their Forces to bereave Christ Jesus of that Right which he hath in the Government of the Church: In which ungodly and wicked Course as they (*dictum Concilium dictæ Dominæ Reginae innuendo*) have held on ever since the beginning of her Majesty's Reign, (*Regimen dictæ Dominæ Reginae innuendo*) so at this Day they have taken greater Boldness, and grown more Rebellious against the Lord and his Cause, than ever they were: *Ad magnum Scandalum & Defamationem dictæ Dominæ Reginae Subversionem*

1592.
34 Eliz.

Subversionem Legum bujus Regni Anglia, &c.

To which Indictments the Prisoner pleaded Not Guilty, but was convicted, and Sentence passed on him as a Felon, and he was hanged on the 29th of May 1592, at St Thomas à Waterings.

Mr Collier observes, that Penry was in London when Hacket endeavoured to raise a Rebellion in the City; and seems

to have been of Opinion if the Train had taken Fire, and the Mob kindled, he would have made an Advantage of that Juncture: But being deceived in his expectation, immediately posted away to Scotland again: And returning to London in the Year 1592, was discovered by the Vicar of Stepney, apprehended and brought to Justice, as related above.

1592.
34 Eliz.

Proceedings against JOHN GREENWOOD Clerk, and HENRY BARROW Gentleman, for Felony. Anno 1592.
34 ELIZ.

Greenwood
and Barrow.

THE Prisoners John Greenwood and Henry Barrow were summoned before the High Commission in the Year 1587, and charged with maintaining and spreading schismatical and seditious Doctrine. Their most remarkable Tenets were as follow: They held, That the Church of England was no true Church: That the Worship in this Communion, was downright Idolatry: That unfancified Persons were taken into the Church: That the Conforming Preachers had no lawful Calling: That no Bishop or Preacher, preaches Christ sincerely or truly: That the People of every Parish ought to choose their Bishop: And that every Elder, though neither Doctor or Pastor, is a Bishop: That all the Preciser Non-conformists, who refused the Ceremonies of the Church, strain at a Gnat, and swallow a Camel; and are no better than closer Hypocrites, such as Cartwright, Wiggington, &c. That all those who make or expound any printed or written Catechisms, are idle Shepherds; as Calvin, Urfin, Howel, &c. That the Children of Usurers, Drunkards, and such ungodly Parents ought not to be baptized: And Lastly, That praying by a Form is blasphemous.

Being committed for these scandalous

Doctrines, they promised to Recant, and were enlarged upon giving Bond. But it was not long before they made an ill use of their Liberty, broke out into farther Excesses, and perverted more Profelytes. Their principal Followers, were, Saxio Billet, Gentleman; Daniel Studly, Girdler; and Robert Bowler, Fishmonger. These with Barrow and Greenwood were committed to the Fleet in the Year 1588. All five of them were indicted for Felony in the Year 1592, upon the Statute 23 Eliz. for Writing and Publishing certain seditious Books, tending to the Slander of the Queen and her Government; and being tryed at the Old Bailey, were convicted and condemned as Felons.

Great endeavours were used to reclaim them; and a Pardon offered if they would renounce their Errors, and promise to become peaceable Subjects. But nothing could prevail with Barrow and Greenwood to alter their Opinions. Whereupon they were carried to the Place of Execution on the last of March, but reprieved and brought back again. However both of them still appearing obstinate and incorrigible, they were executed on the 16th of April following, but the other three were pardoned.

1592.
34 Eliz.

They promise to Recant but Relapse.

The second Charge against them.

They are convicted and condemned.

Reprieved, but executed afterwards.

Lopez, &c. **Proceedings against RODRIGO LOPEZ a Portuguese Jew, and Physician to the Queen, STEPHEN FERREIRA GAMA, and EMANUEL LOISIE, Portuguese Gentlemen, for High Treason. Anno 1594. 36 ELIZ.**

1594.
36 Eliz.
The Charge
against them.

THE Treason the Prisoners were charged with, was a Conspiracy to poison the Queen.

Lopez on his being apprehended, confessed that he was inveigled by *Andrada* a Portuguese, to use his best and most private endeavours for the King of Spain: That he had received from *Christophoro Moro*, his Majesty's chief Favourite and Counsellor, a rich Jewel: That he had thereupon given the Spaniards frequent Advertisements of what fell within his Cognizance: That at last he was prevailed on to give his Promise to poison the Queen, upon an Agreement to receive five thousand Ducats for his Pains: That *Emanuel Loisie* was likewise privately sent to him by *Fuentez* and *Ibara*, to press *Lopez* to dispatch the matter out of hand. *Emanuel* owned that Count *Fuentez* and *Ibara* after he had given them his promise to conceal the Design, shewed him a Letter written by *Andrada* in *Lopez's* Name about taking off the Queen; and that he himself was sent by *Fuentez* to transact with *Ferreira* and *Lopez* about dispatching the Queen with all Speed, and to promise *Lopez* himself Money, and his Children Dignity and Preferments.

Lopez however being brought to his Trial, insisted that *Ferreira* and *Emmanuel* had accused him wrongfully: That he never had any ill Intentions against her Majesty, but abhorred from his heart the Bribes of a Tyrant: That he had presented that Jewel which the King of Spain sent him, to the Queen herself: And that his great aim in what he did, was to gull the King of Spain out of a little Money. The rest said nothing on their own behalf, but cast the blame wholly on *Lopez*. They were all of them condemned, and after three Months hanged at Tyburn; *Lopez* affirming at his Execution, That he loved the Queen

They are
convicted
and execu-
ted.

as well as Jesus Christ. Which Expression coming from a Jew, put the Spectators into a fit of laughter.

The Day after *Lopez* and his Accomplices were condemned *Cullen* an Irish Fencing-Master was tryed for High Treason, in conspiring to kill the Queen.

He was sent over from Flanders by the English Fugitives there, and furnished with Money by them to facilitate the design, as was proved by the testimony of several Witnesses; and in a manner confessed by himself; whereupon he was condemned and executed as a Traytor.

About the same time *Edmund York*, and *Richard Williams* were tryed for High Treason, in conspiring the Death of the Queen. *York* confessed that *Holt* the Jesuit, *Hugh Owen*, *Jacomo de Francisco* and Others had offered him an Assignment of four thousand Ducats, subscribed by *Ibara* the Spaniard, if he would either murder the Queen himself, or assist the said *Richard Williams* in the Fact: That this Assignment was lodged in *Holt's* Hands for his use; and that *Holt* had kissed the consecrated Host and sworn that the Money should be paid as soon as the Murder was committed; and that he likewise bound *York* and *Williams* by their Oaths and the Sacrament to dispatch the Business. To say Truth (says Mr *Cambden*) there was nothing more notorious than the lewd and villanous attempts of the Fugitives about this time: For some were employed in hiring Assassins to murder the Queen; and Others, for the sake of Money were ready to serve as Actors in the infamous Parricide; though they no sooner had took the Pay, but they revealed the Secret. Others again were so untrue to their own Villany, as to push on the ruin of one another, and to fall a Prey to their own base Arts and counterfeit Impeachments. Some Incendiaries also were apprehended

on

1594.
36 Eliz.

Cullen executed for a Conspiracy against the Queen's Life.

Others executed for the like Conspiracy.

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1594.
36 Eliz.
Incendiaries
employed to
burn the
Royal Navy.

Southwell
a Popish
Priest execu-
ted.

on suspicion of being employed to destroy the Royal Navy with Fire-Balls; but whether they were convicted and punished for this Offence, does not appear.

On the 20th of February, 1595, Robert Southwell a Jesuit, was tryed and convicted of High Treason, for remaining in England, and endeavouring to seduce her Majesty's Subjects; and execu-

ted the next Day at Tyburn as a Traytor.

The same Year a Scrivener in Holborn was convicted of High Treason, in setting the Seal of an old Patent to a new Patent he had forg'd and counterfeited, and was executed as a Traytor for the said Offence.

1594.
36 Eliz.
A Scrivener
executed for
High Treason, in counterfeiting the Broad Seal.

Proceedings against five Apprentices for High Treason
Anno 1595, 37 ELIZ,

Five
Apprentices.

1595.
37 Eliz.
Convicted
and executed
for a trea-
sonable Riot.

THE Treason the Prisoners were indicted for, was their assembling with many others in a riotous and tumultuous manner on Tower Hill, and opposing the civil Magistrate and Constables, sounding a Trumpet and driving away the Officers with Stones, when they came to disperse them; for which the Prisoners were convicted of High Treason, condemned and executed as Traytors at Tyburn.

Ainger was tryed and con-

victed of murdering his Father a Barrister of Grays Inn, in his Chamber there, for which he was condemned and hanged at Tyburn, on the 23th of January, 1599. And the same Year on the 10th of July, nineteen Felons were executed at Tyburn, and one pressed to Death for standing Mute; from whence it may be conjectured that the World abounded with Villains as much in those Days as it does in ours;

1595.
37 Eliz.
Ainger execu-
ted for
murdering
his Father.

Twenty Felons executed at Tyburn together.

Proceedings against EDWARD SQUIRE Gentleman for High Treason. November 9, 1598. 40 ELIZ.

Squire.

1598.
40 Eliz.
The Charge
against him.
Convicted
and executed
on his own
Confession.

THE Prisoner Edward Squire was indicted of High Treason, in conspiring the Death of the Queen: And being brought to his Tryal was convicted by his own Confession as well as the Testimony of others; and was executed as a Traytor at Tyburn on the 13th of September. Of whose Conspiracy and Character Mr Camden has given us the following Account.

He was a Man of no Family, and had rose from a little Pettifogger to be an under Groom in the Queen's Stable; then entred a Soldier under Drake in his last Expedition; and being taken Prisoner and carried into Spain, commenced an Acquaintance with Walpole the Jesuit. Walpole got him into the Inquisition as

an Heretick. Where having suffered Hardships enough, he was easily persuaded to change his Religion; and often tampered with to distinguish his Zeal, by doing something extraordinary for the sake of it. At length the Jesuits told him after several Preambles (as Squire himself confessed) That it would be a meritorious piece of Service to kill the Earl of Essex, but a much nobler Act to take off the Queen; which he told him might be done without Noise or Danger, by poisoning the Pummel of the Queen's Saddle, upon which she was obliged to lay her Hands as she rode.

When Squire had consented to this villainous Project, the Jesuit bound him up by several Vows under pain of Dam-

1598.
40 Eliz.

1598.

40 Eliz.

nation to execute and conceal the design. Thus having given his Instrument of Wickedness proper Instructions, and fed him with fine Promises of Sanctity and Salvation, and given him his Blessing as an earnest, he delivered him the Poison. And to prevent any Suspicion on the account of his being just returned from Spain, he contrived that he and an other should be employed as Agents to redeem some Spaniards, who were at that time Prisoners in England. Not long after he very artificially rubbed the Poison under the Pommel of the Queen's Saddle, pretending to be busy about something else, and crying out God save the Queen; but through God's Mercy the Poison took not its effect. Mean while to avoid all Suspicion, he lifted himself under the Earl of Essex, who intended for the Azores, and went out of England a Soldier in his own Ship, and there he besmeared the Earl's Chair with the same Poison, but to as little effect. After this he returned into England, and lived secure, and without the least apprehension that Walpole his Confessor would have turned Informer against him. But he being it seems very much nettled at the ill Success of his Enterprize, and suspecting that Squire had chous'd him, for all his Vows and Engagements, bent himself wholly to Revenge: And it is most certain that a Person was sent to England to impeach Squire for Treason in general terms. Whereupon (the Thing being of that Weight and Importance) Squire was examined and at first denied the Fact. But being afterwards more closely taxed upon certain Circumstances, and suspecting that his Confessor had proved a Judas, he freely confessed all that Walpole had contrived; that he had given his Consent, and how far he had proceeded, &c. However both at the Bar and at the Gallows he protested, that though Walpole and others had persuaded him to the Fact, yet he entered upon it with the greatest Reluctancy. Walpole or some Body for him printed a Pamphlet, wherein he utterly denied the whole Sum and Substance of Squire's Confession. However the matter was, there were some English Runnagadoes that took mighty pains to work the Ruin of others, and to brand themselves with perpetual Infamy: For I am concerned to say, adds Mr Camden, that some of the Clergy had both espoused and broached this pestilent Doctrine; That to take away the Lives of excommu-

nicate Princes, was no more than weeding the Cockle out of the Lord's Field.

In the Month of July 1598, — John, alias Baplyn a Popish Priest, having been convicted in the Court of King's Bench for High Treason, in remaining in England contrary to the Statute, was executed as a Traytor at Tyburn, his Head set up on the Pillory in Southwark, and his Quarters on the Highway, near Newington and Lambeth.

In the Year 1600, John Rigby was convicted and condemned for High Treason, in being reconciled to the Church of Rome, contrary to the late Statute, and executed as a Traytor at St Thomas a Waterings on the 21st of June.

In the Month of July — Hunt and Sprat Popish Priests were executed as Traytors at Lincoln, having been convicted of remaining in England contrary to the Statute some time before.

Edward Thing and Robert Nutter Popish Priests were executed for the like Offence about the same time at Lancaster.

And Thomas — another Popish Priest was executed at Durham for remaining in England contrary to the Statute, as was a Gentleman for relieving and harbouring him.

John Pybush another Popish Priest was executed for High Treason, in remaining in England, at St Thomas a Waterings after seven Years Imprisonment.

Mark Backworth, and Thomas Filcock, Popish Priests, were executed as Traytors at Tyburn on the 27th of February, 1601, 44 Eliz. having been convicted some time before of remaining in England contrary to the Statute; and Anne Line, Widow, was hanged at the same Place for relieving them.

On the last of February 1601. — Woodhouse was hang'd in Smithfield, for libelling the Queen's Administration, and particularly for reflecting on her Majesty's Proclamation for apprehending the Earl of Essex; and declaring him a Rebel and Traytor on the Earl's marching into the City in an hostile Manner, at the Head of an armed Multitude, and attacking the Queen's Forces.

Peter Bullock, Stationer, and Duckett a Printer, were hanged at Tyburn on the eighteenth of April 1602, for printing and publishing a seditious Libel reflecting on her Majesty's Government.

On

1598.

40 Eliz.

John Baplyn
Popish Priest
executed

1600.

43 Eliz.

Rigby executed
for being
reconciled to
Rome.

Hunt and
Sprat Popish
Priests executed.

Thing and
Nutter Popish
Priests executed.

Thomas executed,
and a Gentleman
for harbouring him.

Pybush another
Popish Priest
executed.

1601.

44 Eliz.

Two more
Popish Priests
executed, and
the Widow
Line for har-
bouring them.

Woodhouse
executed for
a seditious
Libel.

1602.

45 Eliz.

Bullock and
Duckett
hanged for
seditious
Libel.

On the twentieth of the same Month of April, *William Kenson, James Page, and Sticheborne*, Popish Priests, were executed as Traitors at Tyburn, for remaining in England contrary to the Statute.

On the seventeenth of February following, *W. Anderson* a Popish Priest, was executed as a Traytor at Tyburn for the like Offence.

1602.
45 Eliz.
Anderson a Popish Priest executed.

Proceedings against the Banditti, on the Borders of England and Scotland for Robbery, &c. 1603. 1 Jac. I.

At the Accession of King *James* to the Crown of England, great Numbers of Nobility and Gentry passing backwards and forwards from one Kingdom to the other, the Borderers who acknowledged themselves subject to neither of the two Crowns, and subsisted chiefly by Rapine, plundered such Gentlemen as they met with upon the Road. The King receiving repeated Complaints of these Outrages, as he passed the Borders towards England, ordered part of the Garrison of *Berwick* to pursue these Bands of Robbers, who thereupon immediately fled from their Habitations. But some of them being apprehended, were tried and condemned to die at *Carlisle*, and executed in pursuance of that Sentence. After which a Proclamation was published prohibiting the Borderers to wear any Weapons offensive or defensive, except a Knife of a certain Length to cut their Food. They were prohibi-

ted also to keep a Horse above the Value of forty Shillings. Whereby the Borders were rendered as safe as any Part of either Kingdom; for which his Majesty was highly applauded. But he incurred the Censure of the People, as said soon afterwards, on his ordering a Pickpocket taken in the Fact in his Journey towards London to be hanged by the Sheriff's Officers without allowing the Offendor the Benefit of a legal Trial. But admitting the Fact to be true, the Sheriff and his English Ministers seem to have deserved Censure much more in not representing to his Majesty, that it was Murder in the Sheriff to cause any Person to be executed without Trial; which the King might possibly be ignorant off. And at last the Truth of this Relation appears very undeniably. Some of our best Historians, and particularly *Stow* and *Wilson* make no mention of it.

Borderers.

1603.
1 Jac. I.

A Pickpocket hanged without Trial.

Proceedings against VALENTINE THOMAS for High Treason. 1603. 1 Jac. I.

THE next Person that was put to Death in this Reign, was *Valentine Thomas*, a Popish Priest, who in the late Reign with several more of his Brethren had conspired to depose and murder the Queen, and prevent the Succession of King *James* to the Throne. For this

he was indicted, convicted and condemned at the King's Bench Bar on the fourth of June 1603, in the first Year of King *James*, and executed as a Traytor on the seventh of the same Month at *St Thomas a Waterings*.

1603.
1 Jac. I.

Proceedings

Waters, Wi-
dow.**Proceedings against ANNE WATERS, Widow, for Petty
Treason. 22 August 1603. 1 JAC. I.**1603.
1 Jac. I.
The Charge
against her.The Evi-
dence.

THE Treason the Prisoner *Anne Waters* was charged with was the being accessory to the Murder of her Husband; for which she was indicted and tried at the Assizes for *Lancashire*, before Mr Baroh *Altam* and Mr Serjeant *Philips*, Justices of the Assize.

It appeared upon the Evidence, that the Prisoner had a criminal Amour with another Man, who persuaded her to permit him to kill her Husband that he might enjoy her with less Restraint; and that thereupon her Lover with his Man strangled her deceased Husband in the Night and buried him in his Cow-house, under a great Heap of Dung. The Neighbours missing the Deceased, came to the Widow and enquired after him;

who put them off from Time to Time with one frivolous Answer or other. But it happened that about fourteehn Days after the Deceased was missing, one of the Men of the Town dreamt that his said Neighbour was strangled and buried under the Cow Dunghill in an Outhouse. This being repeated severall Nights, he communicated to his Neighbours, who thereupon took the Constable with them, and found the dead Body buried under the said Dunghill in the Cowhouse: Which the Lover hearing of, he and his Man fled, and the Widow being apprehended was convicted on these Circumstances, and condemned to be burnt; which Sentence was accordingly executed on her.

She is con-
victed and
executed.

Stuart.

**Proceedings against JAMES STUART and THOMAS DOUGLAS, Gentlemen, both of the Kingdom of Scotland, for
High Treason. 1604. 2 JAC. I.**1604.
2 Jac. I.
The Charge.He is con-
victed and
executed.Douglas.
The Charge.

THE Treason the said *James Stuart* was charged with, was his counterfeiting the King's Hand, in order to procure the great Seal of *England* to a Patent he had forged, containing a Grant of Crown Lands of the Value of an hundred Marks *per Annum*; of which he was convicted at the Sessions at the *Old Baily*, and afterwards condemned and executed as a Traytor.

The Treason the said *Thomas Douglas* was charged with was his counterfeiting the Privy Seal to five Letters from his Majesty to five *German Princes*, recommending the Prisoner to each of the said Princes for Preferment. The first of

which Letters was directed to the Elector of *Cologne*: The second to *Frederick*, Count Palatine of the *Rhine*: The third to the Elector of *Triers*: The fourth to *John William*, Duke of *Cleve*: And the fifth to the Elector of *Mentz*. The Forgery being discovered by the Count Palatine of the *Rhine*, he sent the Prisoner with his Lettets back to *England*. Whereupon he was tried and convicted of High Treason at the *Old Baily* on the twenty sixth of *June*: And the next Day drawn to the Place of Execution in *Smithfield*, where he confessed the Fact; and was afterwards hang'd and quarter'd.

1604.
2 Jac. I.He is con-
victed and
executed.

Proceedings

Proceedings against **WALTER CALVERLY, Esq;** *for murdering his Children.* 1604. 2 Jac. I.

1604.
2 Jac. I.
The Charge.

Pressed to
Death.

IN the Year 1605 *Walter Calverly* of *Calverly* in the County of *York*, Esq; was indicted for the Murder of two of his young Children: For which Murder being arraigned at the Assizes at *York* he stood mute, and was thereupon sentenced to be pressed to Death; which Judgment was executed on him in the Castle of *York* on the fifth of *August*. It appeared

upon the Evidence, that at the same time the Prisoner murdered his two Children, he stabbed his Wife in the Body, with an intent to have murdered her; and immediately went from his House, in order to kill his youngest Child, which was at nurse, but was prevented.

1604.
2 Jac. I.

Proceedings against **HENRY PERCY Earl of Northumberland,** *for divers Misprisions and Contempts against his Majesty.* 1606. 4 Jac. I.

Earl of Northumberland.

1606.
4 Jac. I.
The Charge

HENRY PERCY, Earl of *Northumberland*, being committed to the *Tower*, a Bill was preferred against him in the Star Chamber, setting forth, 1. That the said Earl had endeavoured to make himself the Head of the *English* Papists, and to procure them a Toleration. 2. That he had admitted *Thomas Percy* to be one of the King's Gentlemen Pensioners, without tendering to him the Oath of Supremacy, although he knew the said *Percy* to be a Popish Recusant. 3. Whereas the said Earl sat in Council with the other Lords, and had Reason to apprehend that the said *Thomas Percy* was one of the principal Conspirators in the late horrid and treasonable Conspiracy called the *Gunpowder Plot*, yet he the said Earl wrote several Letters into the North to his Friends and Servants to secure his Money and Rents from the said *Thomas Percy* (supposing he had fled thither) but neglected to give any Directions in the said Letters for the apprehending the said *Percy* who was then known to be so dangerous a Traytor. 4. That he presumed to write and send Letters abroad after his Confinement, without

leave of his Majesty or his privy Council. 5. That he had written Letters into those Parts whither the said *Percy* fled, giving an Account of the State of Affairs and Intelligence how he might make his Escape. 6. And lastly, That he had entered into Conferences with his Friends concerning the King and his Administration, and particularly how long and in what manner he should reign.

What Defence the Earl made to the Charge does not appear; but he was condemned by the Court of Star Chamber to pay a Fine of 33,000*l.* to the Use of his Majesty; removed from his Place of Privy Counsellor, and from being Captain of his Majesty's Band of Pensioners; and from being Lieutenant of any of his Majesty's Counties; and from all and every other Offices he enjoyed; And was for ever after disabled to take upon him or exercise any of the said Offices or Places, and condemned to remain Prisoner in the *Tower* for Life. And the Earl actually remained a Prisoner in the *Tower* fifteen Years, viz. till July 18, 1621. 19 Jac. I.

1606.
4 Jac. I.

Removed from his Places.

And imprisoned.

Lord Mor-
dant and
Sturton,

*Proceedings against HENRY Lord MORDANT, and ED-
WARD Lord STURTON, for absenting themselves from
Parliament. Anno 1606. 4 JAC. I.*

1606.
4 Jac. I.
The Charge.

HENRY Lord Mordant, and **Ed-
ward** Lord Sturton being committed
to the Tower, were brought before the
Court of Star Chamber, and a Bill prefer-
red against them, containing the follow-
ing Charge, viz. That being Peers of the
Realm, and Barons of the High Court
of Parliament; and either of them having
severally to him directed and delivered
his Majesty's Writ of Summons to the Par-
liament under his Highness's Great Seal
of England, requiring and commanding
either of them severally to resort to his
Highness's Court of Parliament, to be
holden at Westminster on the 5th of No-
vember last; (viz. the Day appointed
by the Conspirators, for blowing up the
Parliament House) there to have con-
ferred and consulted with his most ex-
cellent Majesty, and the rest of the No-

bility and Peers of the Realm about the
Defence of the King, the Realm and
State, and of the Church of England,
the abovesaid Lords contrary to the Ten-
or of the Writ, their Honour, Allegi-
ance, and discharge of their Duties in
that behalf, did not either of them make
their Appearance in the said High Court
of Parliament.

1606.
4 Jac. I.

To this Charge the two Lords made
no Defence, but confessed themselves
Guilty, and acknowledged their Errors.
Whereupon the Court of Star Chamber
awarded, That the Lord Mordant should
pay to his Majesty the Sum of ten thou-
sand Marks, the Lord Sturton the Sum
of six thousand Marks; and that both of
them should return to the Tower, and
remain there during his Majesty's Plea-
sure.

Confessed,

The Sen-
tence against
them.

Reynolds, &c.

*Proceedings against JOHN REYNOLDS Labourer, alias
Captain POUCH, and his Accomplices, for High Trea-
son and other Crimes. Anno 1607. 6 JAC.*

1607.
6 Jac. I.
The Charge
against them.

THE Treason the Prisoners were
charged with, was levying War
against the King: And particularly their
assembling in a riotous and tumultuous
manner with Shovels, Pickaxes, Bills,
and other Tools to cut down Hedges,
fill up Ditches, and lay open all Inclo-
sures in common Fields and other Grounds
which had anciently laid open, and been
employed in Tillage: And proceeding to
put their designs in Execution, and re-
fusing to disperse after several Proclama-
tions made for that Purpose by his Ma-
jesty's Command.

Some con-
victed of
Treason,

Reynolds and some of the most noto-
rious Offenders being tryed before the

Earls of Huntington and Exeter, the
Judges and several other Commissioners
of Oyer and Terminer at Coventry, were
convicted of High Treason, and execu-
ted as Traytors.

1607.
6 Jac. I.

Others of the Criminals were indicted
and convicted of Felony, in continuing
together the Space of an Hour after Pro-
clamation made for them to disperse. And
the remainder of the Prisoners were in-
dicted and convicted only of a Riot, from
whence it appears that the Prosecutors
were at liberty to denominate the Crime
either Treason, Felony, or Riot, as they
saw fit: And the Jury were obliged to
find the Fact as laid in the Indictment,
or acquit the Prisoner.

Others of
Felony,

and the rest
of a Riot.

1607.
7 Jac. I.
Further
account of
his Insurrec-
tion.

These Riots were committed in Northamptonshire, Warwickshire and Leicestershire. And it is observed by our Historians that the Rioters were guilty of no manner of Theft, or Violence to any Man's Person, Goods or Cattel, but were voluntarily furnished with Meat and Drink, and with Shovels, Bills and Pickaxes by the Inhabitants of every Village where they came; those Inclosures being looked upon as a general Grievance. And notwithstanding several Proclama-

tions made for them to disperse, they kept together till Forces were raised, and their Ringleaders made Prisoners.

Their General, Captain Pouch, was so called from a leathern Pouch he wore by his side, which he told his Followers contained sufficient Matter to defend them against all their Enemies. But when he was apprehended and searched, there was nothing else found in his Pouch but a piece of mouldy Cheese.

1607.
6 Jac. I.

Proceedings against Popish Priests for High Treason.
Anno 1608. 7 JAC. I.

Gervis a Po-
pish Priest

1608.
7 Jac. I.
Executed.

GEORGE Gervis a Popish Priest was convicted of remaining in England forty Days, contrary to the Statute, for which he was executed as a Traytor at Tyburn, on the 11th of April.

Thomas Garnet a Popish Priest and Jesuit, was convicted of remaining in England contrary to the Statute, and executed also at Tyburn on the 23d of June; when a Pardon was offered him if he would take the Oath of Allegiance, but he refused Life upon these terms.

The same Year on the 2nd of December, were nineteen Pyrates condemned by the Admiralty, and executed together at Whipping: some of them Men of Figure.

Merchants and Commanders of Ships: Who with several Pyrates of other Nations had joined the Infidels of Tunis, and formed a Squadron of Rovers, with which they attacked all Merchant Ships that came into the Mediterranean, especially the Spaniards, Venetians, and Florentines, and sold the Merchandize they thus acquired in England. But these Corsairs were at length suppressed by a Spanish Squadron of Men of War, which took and burnt two and twenty of their Ships, and made some Prisoners, among which were those abovementioned, executed here.

1608.
7 Jac. I.

Proceedings against BARTHOLOMEW LEGAT for Heresy.
Anno 1611. 9 JAC. I.

Legat.

1611.
9 Jac. I.
The Charge
against him,

THE Heresies the said Bartholomew Legat the Prisoner, was charged with maintaining, were,

I. That the Creed called the Nicene Creed, and Athanasius's Creed, contain not a Profession of the true Christian Faith.

II. That Christ is not of God begotten, not made, but begotten and made.

III. That there are no Persons in the Godhead.

IV. That Christ was not God from everlasting, but began to be God when he took Flesh of the Virgin Mary.

V. That the World was not made by Christ.

VI. That the Apostles teach Christ to be Man only.

VII. That

1611.
9 Jac. I.

1611.

9 Jac. I.

VII. That there is no Generation in God but of Creatures.

VIII. That this Assertion, God to be made Man is contrary to the Rule of Faith, and monstrous Blasphemy.

IX. That Christ was not before the fulness of Time, except by Promise.

X. That Christ was not God, otherwise than an anointed God.

XI. That Christ was not in the Form of God equal with God; that is, in substance of God but in Righteousness and giving Salvation.

XII. That Christ by his Godhead wrought no Miracle.

XIII. That Christ is not to be prayed unto.

King James caused this Legat often to be brought to him, and seriously dealt with him to endeavour his Conversion. One time the King had a design to surprise him into a Confession of Christ's Deity (as his Majesty afterwards declared to a Right Reverend Prelate) by asking him, *Whether or no he did not daily pray to Jesus Christ? Which had he acknowledged; the King would infallibly have inferred, that Legat tacitly consented to Christ's Divinity, as a Searcher of the Heart. But herein his Majesty failed of his Expectation, Legat returning, That indeed he had prayed to Christ in the Days of his Ignorance, but not for these last seven Years. Hereupon the King in Choler, spurned at him with his Foot. Away base Fellow, says he, it shall never be said, that one stayeth in my Presence, that hath never prayed to our Savior for seven Years together.*

Often was he convened before the Bishops in the Consistory of St Paul's, where he persisted obstinate in his Opinions, flatly denying the Authority of that Court. And no wonder that he slighted the Power of earthly Bishops, denying the Divinity of him who is the Shepherd and Bishop of our Souls (says Mr. Fuller). The Disputation against him was principally managed by Doctor King, Bishop of London, who gravelled and utterly confuted him with that Place of Scripture, John xvii. 5. *And now O Father, glorify thou me with thine own self, with the Glory which I had with thee before the World was.* This Text says Mr Fuller was so seasonably alledged, so plainly expounded, so pathetically enforced by the Elo-

quence and Gravity of that Bishop (qualities wherein he excelled); that it gave marvellous Satisfaction to a multitude of People there present; that it is conceived, it happily unproselyted some inclinable to his Opinions; though Legat himself remained pertinacious, both against the impressions of Arguments and Scripture, daily multiplying his enormous Opinions.

For maintaining the abovesaid Opinions, Legat had long been in Prison in Newgate, yet with liberty allowed him to go abroad; not contented wherewith, he openly boasted, and often threatned to sue the Court, which committed him, for reparations for false Imprisonment; so that his own Indiscretion hastned his Execution.

For hereupon Bishop King finally convened him to the Consistory of St Paul's. And that worthy Prelate, foreseeing that his Proceedings herein would meet with many listening Ears, prying Eyes and prating Tongues (says Fuller) chose most reverend Bishops, able Divines, and learned Lawyers to assist him. So that the Consistory so replenished for the Time being, seemed not so much a large Court as a little Convocation. With the Counsel and Consent of these, by his definitive Sentence, he pronounced, decreed and declared the said Bartholomew Legat an obdurate, contumacious and incorrigible Heretick: And by an Instrument called a *Significavit*, certified the same into the Chancery, delivering him up unto the secular Power; the Church Keys in such Cases craving the Help of the Civil Sword. Whereupon King James by his Letters dated March 11, under the Privy Seal, gave order to the Broad Seal to direct the Writ de *Hæretico comburendo* to the Sheriffs of London, for the burning the foresaid Legat.

And he was burnt in Smithfield on the tenth of March following, refusing the Mercy that was offered him, and contemning all Ecclesiastical Government. Mr Fuller informs us that the Sufferer was a graceful Person and about forty Years of Age, of a bold Spirit, confident Carriage, fluent Tongue, excellently skilled in Scriptures; His Conversation (for ought I can learn to the contrary) unblameable.

He is convicted and Burnt.

Proceedings against EDWARD WIGHTMAN of Burton *Wightman*
upon Trent, for Heresy. Anno 1611. 9 JAC. I.

1611.
9 Jac. I.
The Charge
against him.

TEN several Heresies were laid to the Charge of the Prisoner (viz.) Those of Ebion, Cerintbus, Valentinian, Arius, Macedonius, Simon Magnus, Manes, Manichæus, Pborinus, and of

the Anabaptists. Of which he was convicted before Dr Richard Neile, Bishop of Coventry and Litchfield, and being delivered over to the secular Arm was burnt at Litchfield.

1611.
9 Jac. I.
he is burnt.

Proceedings against JOHN TRASK for Heresy. *Trask*
Anno 1618. 17 JAC. I.

1618.
17 Jac. I.
The Charge
against him.
Convicted.
Whipped
and Imprisoned.

JOHN TRASK, a pretended Minister, was charged with depriving the Ecclesiastical Government, and teaching divers Judaical Doctrines: As that it was not lawful to do any thing forbidden in the old Law, or to keep the Christian Sabbath. Of which he was convicted in the Star Chamber, and sentenced to be set in the Pillory at Westminster, and to be whipt from thence to the Fleet; where he was to remain in Prison during his Majesty's Pleasure. Which Sentence was executed on him, but the Prisoner renouncing his Heresies and schismatical Tenets about three Years afterwards, he was set at Liberty.

King James, 'tis observed, would not suffer an Heretick to be proceeded against capitally after the Execution of Wightman, in the Year 1611. He chose rather to let them waste away privately in Prison, than grace them with the Solemnity of a publick Execution: The People beholding such Executions with Horror, and being apt to entertain favourable Thoughts of these Opinions which they saw the Sufferer's Seal so courageously with their Blood: But it appears there were very few afterwards who publicly avowed any heretical Doctrines in that Reign.

1618.
17 Jac. I.
Capital Punishments
for Heresy,
diffused.

Proceedings against Sir GILES MOMPESON, and Sir FRANCIS MITCHELL, for Extortion and Oppression. 1620.
19 JAC. I.

Mompesson
and Mitchell.

1620:
19 Jac. I.
The Charge
against them.

SIR Giles and Sir Francis were impeached by the Commons for extorting unreasonable Sums of the Subject, under Colour of a Patent they had obtain'd for lincensing Inns and Alehouses;

and Sir Giles flying beyond Sea while the Prosecution against him was depending, the Lords passed the following Sentence on him, viz;

1620:
19 Jac. I.

1620.
19 Jac. I.
Their Sentence.

I. That he shall be degraded of the Order of Knighthood, with Reservation of the Dignity to his Wife and Children.

II. That he shall stand perpetually in the Degree of his Person, outlawed for Misdemeanour and Trespas.

III. That his Testimony be received in no Court, nor he be of any Inquisition or Jury.

IV. That he shall be excepted out of all general Pardons to be hereafter granted.

V. That he shall be imprisoned during Life.

VI. That he shall not approach within twelve Miles of the Court or Prince, nor the King's high Court usually held at *Westminster*.

VII. That the King's Majesty shall have the Profit of his Lands for Life, and all his Goods and Chattels so forfeited;

and that he shall undergo Fine and Ransom: Which was set at ten thousand Pounds.

VIII. Disabled to hold or receive any Office under the King or for the Commonwealth.

IX. That he shall be ever held an infamous Person.

X. And his Majesty added thereto, perpetual Banishment.

Sir *Francis Mitchel*, his Partner in Iniquity was adjudged to pay a Fine of one thousand Pounds; to ride from *Westminster* to *London* with his Face to the Horse's Tail, and remain a perpetual Prisoner in *Finsbury* Jail. The first Part of which Sentence was put in Execution, but how long he remained in Jail I am not certain.

1620.
19 Jac. I.

Harman.

Proceedings against — HARMAN, Gentleman, for Robbing his own Tenant. Anno 1624. 23 Jac. I.

1624.
23 Jac. I.
The Charge.

He is condemned.

The State of his Case, from Mr *Wilson*.

THE Prisoner was indicted at *Nor-thampton* Affizes for Felony, in robbing — his Tenant on the Highway: To which he pleaded Not Guilty; but was convicted and condemned for the Fact.

Mr *Wilson* who wrote the History of King *James I.* has given us the following State of the Case.

'One *Harman* a rich Man (that knew not well how to make use of his Riches) having some bad Tenants, and being informed that one of them which owed him Money, had furnished himself to go to a Fair to buy some Provisions for his Accommodation, *Harman* walks (as by Accident) to meet him in the Way to the Market. When he saw his Tenant, he asked him for his Rent. The Man (that was willing otherwise to dispose of his Money) denied he had any. Yes I know thou hast Money, said *Harman*, (calling him by his

Name) I prithee let me have my Rent; and with much Importunity the Man pulled out his Money, and gave all or the most part of it to his Landlord: This coming to some pragmatistical Knowledge, the poor Man was advised to indict his Landlord for robbing him, and taking his Money from him on the Highway; which he did: And *Harman* for his sordid and base Carriage, being ill beloved in the Country, was found Guilty, but reprieved by the Judges. And *Harman* hearing the Lord Treasurer had a Secretary of his Name, he applied himself to him, promising to give him all his Estate (having no Children) if his Lord would bring him out of the Danger he was in, which the Lord Treasurer by his Power with the King did effect, and *Harman* his Man within a short Time after (by the other's Death) enjoyed an ample Estate.'

1620.
23 Jac. I.

Purchased Pardon.

Proceedings

Proceedings against RICHARD MONTAGUE, Clerk, Canon of Windsor, and Chaplain in Ordinary to his Majesty, for a Libel. Anno 1625. 1 CAR. I.

1625.
1 Car. I.
The Charge
against him.

THE first Parliament of King Charles I. meeting at Westminster on the eighteenth of June 1625, a Complaint was made in the House of Commons by some Members against a Book of the said Montague's, called *An Appeal to Caesar*; which they charge to be contrived and published to put a Jealousy between the King and his well affected Subjects; and to contain many things contrary to the Articles of Religion established by Parliament; and that the whole Frame thereof was an Encouragement to Popery.

Mr Montague being brought before the House on the seventh of July, they assigned him a Day to answer this Charge, and took Bond for his Appearance in the Penalty of two thousand Pounds. At which Proceedings the King two Days afterwards signified his Displeasure; observing that one of his Chaplains had at least as much right to Privilege and Protection as the Servant of an ordinary Burgefs.

The Parliament being prorogued soon after on Account of the Plague, and meeting again at Oxford, where they shewed the same Disposition to prosecute Mr Montague, he wrote an humble Letter to the King, dated twenty nine July 1625, wherein he stated his Case, and petitioned that by his Majesty's Authority and Wisdom he might be protected from those who had no Power over his Person, as being his Majesty's Servant in Ordinary; nor over his Book which had been written by the Command of his Royal Father, and authorised by his Majesty himself: Concluding that if he could not really and thoroughly answer whatever was or could be objected to any of his Books, he would desire no farther Favour or Protection, but willingly be left to the Mercy of his Enemies.

I don't find that this Parliament proceeded any farther against Mr Montague; but the next, which was summoned to meet on the sixth of February 1625-6,

resuming the Consideration of Religion, drew up nine Articles against the said Mr Montague: In the Preamble whereof they set forth, That on or about the 21st Year of the late King James, he caused to be printed, and in his Name to be published, one Book, called *An Answer to the late Gagg of Protestants*: And in or about the Year 22 of the same King, he caused to be printed and published one other Book, entitled *A Treatise of the Invocation of Saints*: And likewise in the first Year of his Majesty's Reign that now is, he procured to be printed, and in his Name to be published, another Book, entitled *An Appeal to Caesar*. In every of which Books he maintained and confirmed some Doctrine contrary or repugnant to the Articles agreed on by the Archbishops and Bishops of both Provinces, and the whole Clergy holden in the Convocation at London 1562, for avoiding Diversity of Opinions, and for establishing Consent touching true Religion: All which appeared in divers Places and Passages of the same Books: And by so doing he had broken the Laws and Statutes of this Realm in that Case provided; and very much disturbed both the Peace of Church and Commonwealth.

I. The first Article charges the said Mr Montague with maintaining and affirming in his said Book called *The Answer to the Gagg*, That the Church of Rome is and ever was a true Church.

II. That he maintained and affirmed, That the Church of Rome had ever remained firm upon the same Foundation of Sacraments and Doctrine instituted by God.

III. That he affirmed and maintained, That the Points controverted between the Protestants and Papists are of an inferiour Nature, of which a Man may be ignorant without any Danger to his Soul.

IV. That he maintained, That Images may be used for the Instruction of the Ignorant, and Excitation of Devotion.

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1 Car. I.
Preamble to
the Articles
against him.

Particular
Articles a-
gainst Mr
Montague.

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1 Car. I.

V. That he maintained that Saints have a peculiar Patronage, Custody, Protection and Power, as Angels also have, over certain Persons and Countries.

VI. That he maintained that Men justified may fall away and depart from the State which they once had: And did endeavour to lay a most wicked Scandal upon the Church of *England*, as if she differed from the other reformed Churches, and consented to those pernicious Errors called Arminianism.

VII. That he endeavoured to raise Factions and Divisions in the Common Wealth, by giving the Odious Name of *Puritans* to his Majesty's Subjects, who conformed themselves to the Doctrines and Ceremonies of the Church of *England*; to the great Danger and Disturbance of the State.

VIII. That the Scope and End of his Books was to encourage Popery, and withdraw his Majesty's Subjects from the established Religion.

IX. That his said Book called *The Appeal*, contained Passages dishonourable to his late Majesty, and were full of railing and injurious Speeches towards other Persons; particularly many worthy Divines of this and other Kingdoms, scoffing at Preaching, Meditation, &c.

All which Offences being to the dishonour of God, and the Mischievous Consequences of the Church and Commonwealth, the Commons in Parliament pray that the said *Richard Montague* may be punished according to his Demerits.

But whether these Articles were intended to be presented to the King, or car-

ried up to the Lords by way of Impeachment; or whether Mr *Montague* was ever called upon to put in his Answer to them, does not appear. But the King on the 14th of *June*, published a Proclamation for suppressing all new Opinions, contrary to the Orthodox Religion of the Church of *England*, declaring that he would not suffer any Innovations in the Doctrine or Discipline of the Church of *England*.

Which Proclamation Bishop *Kennet* observes, was intended not so much to restrain Mr *Montague*, as to suppress the Answers that were made to him. The following Year Mr *Montague*, was made Bishop of *Chichester*; however his Majesty thought fit for the Preservation of Peace among the Clergy, to call in all the Books entitled *An Appeal to Caesar*, which he observed had been the first Cause of those Disputes and Differences which had troubled the Church; and suppressed also the several Answers that had been written against it.

The Character Mr *Eckard* gives of this Prelate is, that he was a Person of vast and general Learning; who in King *James's* Reign had defeated the then thought matchless *Selden* in his History of *Tytbes*, by which, and other Writings, he gained great Reputation, and afterwards several Preferments, (notwithstanding the Resentments of the Parliament, particularly the Bishoprick of *Chichester*, and lastly that of *Norwich*; where he shewed himself a warm and vigorous Prelate, and a great Opposer of the Puritan Party.

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1 Car. I.
No further Proceedings on these Articles.

Bristol Earl.

Proceedings against JOHN DIGBY, Earl of Bristol, for High Treason. Anno 1625. 1 CAR. I.

1625.
1 Car. I.
The first Charge against him.

THE first Charge preferred against the Earl of *Bristol*, was upon the breaking off the Match between the Prince of *Wales*, (afterwards King *Charles I.*) and the Princess of *Spain*. The ill Success of which Negotiation, as well as that relating to the Prince *Palatine*, (or King of *Bohemia*) being ascribed by the Duke of *Bucks* to the ill Conduct of the Earl: Insomuch that he prevailed upon King *James* to deny the Earl Admission

to his Presence at his return from *Spain*. And he remained under that restraint till the King died.

At the Accession of King *Charles I.* the Earl was again prohibited to come to Court; nor did he receive a Writ of Summons to attend the Parliament, when Writs were issued to the rest of the Peers. Whereupon he preferred a Petition to the House of Peers, setting forth, That he being a Peer of the Realm, had not received

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1 Car. I.

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1 Car. I.
ceived a Summons to Parliament; and desires their Lordship to mediate with his Majesty, that he may enjoy the Liberty of a Subject, and the Privilege of his Peerage, after almost two Years restraint, without being brought to a Tryal: And if any Charge be brought in against him, he prayeth that he may be tried by Parliament.

Soon after which, it was signified to the House by the Duke of Bucks, that upon the Earl's Petition to the King, his Majesty had sent him his Writ of Summons: And withal shewed to the Lords the Copy of a Letter written from the King unto the said Earl, being as followeth,

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We have received your Letter addressed unto us by Buckingham, and cannot but Wonder, that you should through Forgetfulness, make request to us of Favour, as if you stood evenly capable of it, when you know what your Behaviour in Spain deserved of us: Which you are to examine by the Observations we made, and know you well remember: How at your first coming into Spain, taking upon you to be so wise, as to foresee our Intention to change our Religion, you were so far from dissuading us, that you offered your Advice and Secresy to concur in it; and in many other Conferences, pressing to shew how convenient it was to be a Roman Catholick; it being impossible in your Opinion to do any great Action otherwise: And how much wrong, disadvantage, and disservice you did to the Treaty, and to the Right and Interest of our Dear Brother and Sister, and their Children; what Disadvantage, Inconvenience and Hazard you entangled us in by your Artifices, putting off and delaying our Return home; the great Estimation you made of that State, and the low Price you set this Kingdom at: Still maintaining, that We, under colour of Friendship to Spain, did what was in our power against them; which they said, you very well knew: And last of all your approving of these Conditions, that our Nephew should be brought up in the Emperor's Court; to which Sir Walter Aston, then said, That he durst not give his Consent, for fear of his Head: You replying unto him, that without some such great Action, neither Marriage nor Peace could be had.

Upon the Receipt of the Writ, Bristol
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1 Car. I.
again petitioned the House of Lords, and annexed to his Petition the Lord Keeper's Letter, and his own Answer thereto, being of the following tenor.

The Humble Petition of John Earl of Bristol,

Humbly sheweth unto your Lordships,
THAT he hath lately received his Writ of Parliament, for which he returneth unto your Lordship's most humble Thanks; but jointly with it a Letter from my Lord Keeper, commanding him in his Majesty's Name to forbear his Personal Attendance. And although he shall ever obey the least intimation of his Majesty's Pleasure, yet he most humbly offereth unto your Lordship's wise Considerations, as too high a Point for him, how far this may trench upon the Liberty and Safety of the Peers, and the Authority of their Letters Patents, to be in this sort discharged by a Letter missive of any Subject without the King's Hand. And for your Lordships due Information, he hath annexed a Copy of the said Lord Keeper's Letter, and his Answer thereunto.

He farther humbly Petitioneth your Lordships, That having been for the space of two Years, highly wronged in point of his Liberty; and of his Honour by many sinister Aspersions which have been cast upon him, without being permitted to answer for himself; which hath been done by the Power and Industry of the Duke of Buckingham; to keep him from the Presence of his Majesty and the Parliament; lest he should discover many Crimes concerning the said Duke:

He therefore most humbly beseecheth, That He may be heard both in the point of his Wrong, and of his Accusation of the said Duke: Wherein he will make it appear, how infinitely the said Duke hath both abused their Majesties, the State, and both the Houses of Parliament. And this he is most confident will not be denied, since the Court of Parliament never refuseth to hear the poorest Subject seeking for redress of Wrongs; nor the Accusation against any, be he ever so powerful: And herein he beseecheth your Lordships, to mediate to his Majesty for the Suppliants coming to the House, in such sort as you shall think fitting; assuring

M m m

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1 Car. I.

'suring his Majesty, that all he shall
' say, shall not only tend to the Service
' of his Majesty, and the State, but
' highly to the Honour of his Majesty's
' Royal Person, and of his Princely Vir-
' tues: And your Suppliant shall ever
' pray for your Lordships Prosperity.'

The Lord Keeper to the Earl of Bristol
March 31st, 1626.

My very Good Lord,

BY his Majesty's Command, I here-
' with send unto your Lordship
' your Writ of Summons for the Parlia-
' ment: But withal signify his Majesty's
' Pleasure herein farther; that howsoever
' he gives way to the awarding of the
' Writ, yet his Meaning is thereby, not
' to discharge any former Directions for
' Restraint of your Lordship's coming
' hither; but that you continue under the
' same Restriction as you did before; so as
' your Lordship's Personal Attendance is
' to be forborn: And therein I doubt not
' but your Lordship will readily give his
' Majesty satisfaction. And so I commend
' my Service very heartily unto your Lord-
' ship, and remain

Your Lordship's assured

Friend and Servant,

Darst-Court,
March 31st
1626.

Thomas Coventry, C. S.

His Answer to the Lord Keeper.

My Lord,

IHAVE received Your Lordship's
' Letter of the 31st of *March*, and
' with it his Majesty's Writ of Summons
' for the Parliament: In the one his
' Majesty commandeth me that all Ex-
' cuses set aside, upon my Faith and Al-
' legiance I fail not to come and attend
' his Majesty; and this under the Great
' Seal of *England*. In the other, as in a
' Letter missive, his Majesty's Pleasure is
' intimated by your Lordship, that my
' Personal Attendance should be forborn.
' I must crave leave ingenuously to con-
' fess unto your Lordship, that I want
' Judgment rightly to direct my self in
' this Case: As likewise that I am igno-
' rant, how far this may trench upon the
' Privileges of the Peers of this Land;
' and upon mine and their Safety here-
' after. For if the Writ be not obeyed,
' the Law calleth it a Misprision and
' highly Fineable; whereof we have had

late Examples: And a missive Letter be-
' ing avowed or not, it is to be doubted
' would not be adjudged a sufficient Dis-
' charge against the Great Seal of *En-*
' *gland*. On the other side, if the Letter
' be not obeyed, a Peer may, *De Facto*,
' be committed upon a Contempt in the
' Interim, and the Question cleared after-
' wards; so that in this Case it is above
' mine Abilities. I can only answer your
' Lordship, That I will most exactly obey.
' And to the end I may understand which
' Obedience will be in all kinds most
' suitable to my Duty I will presently
' repair to my private Lodging at *Lon-*
' *don*; and there remain, until in this,
' and other Causes, I shall have petition-
' ed his Majesty, and understand his far-
' ther Pleasure. For the second part of
' your Lordship's Letter, where your
' Lordship saith, That his Majesty's Mean-
' ing is not thereby to discharge any for-
' mer Directions for restraint of your
' Lordship's coming hither, but that you
' continue under the same Restriction as
' before; so that your Lordship's Per-
' sonal Attendance here is to be forborn:
' I conceive your Lordship intendeth this
' touching my coming to Parliament
' only. For as touching my coming to
' *London*, I never had at any time one
' Word of Prohibition or colourable pre-
' tence of Restriction. But on the contrary,
' having his late Majesty's express Leave
' to come to *London* to follow my Af-
' fairs; out of my respect to his Majesty,
' then Prince, and to the Duke of *Buck-*
' *ingham*, I forbore to come up till I
' might know, whether my coming
' would not be disagreeable unto them.
' Whereunto his Majesty was pleased to
' answer, both under the Hand of the
' Duke, and of Mr Secretary *Conway*,
' that he took my respect unto him
' herein in very good part; and would
' wish me to make use of the Leave
' the King had given me. Since which
' time I never received any Letter or
' Message of Restriction. Only his Ma-
' jesty by his Letter bearing date *June*
' the last, commandeth me to remain as
' I was in the time of the King his Fa-
' ther: Which was with liberty to come
' to *London*, to follow my own Affairs
' as I pleased; as will appear unto your
' Lordship, if you will afford me so
' much favour as to peruse them. I
' have writ thus much unto your Lord-
' ship, because I would not, through
' Misunderstanding, fall into Displeasure
' by

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1 Car. I.

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1 Car. I.

' by my coming up, and to entreat your
' Lordship to inform his Majesty there-
' of: And that my Lord *Conway*, by
' whose Warrant I was only restrained
' in the late King's time, of famous Me-
' mory, may produce any one Word,
' that may have so much as any colour-
' able Pretence of debarring my coming
' up to *London*. I beseech Your Lord-
' ship to pardon my desire to have things
' clearly understood; for the want of
' that, formerly, hath caused all my
' Troubles. And when any thing is mis-
' informed concerning me, I have little
' or no means to clear it; so that my
' chief Labour is to avoid misunderstand-
' ing. I shall conclude with beseeching
' your Lordship to do me this Favour,
' to let his Majesty understand, that my
' coming up is only rightly to under-
' stand his Pleasure; whereunto I shall
' in all things most dutifully and hum-
' bly conform my self. And so with
' my humble Service to your Lordship,
' I recommend you to God's Holy Pro-
' tection, and remain

Your Lordship's most

Humble Servant,

Bristol.

Sherborn
April, 12th
1626.

Hereupon the Lord Keeper delivered
this Message from the King to the House
of Lords.

' That his Majesty hath heard of a
' Petition preferred unto this House by
' the Earl of *Bristol*, so void of Duty
' and Respects to his Majesty, that he
' hath great cause to punish him: That
' he hath also heard with what Duty and
' and Respectfulness to his Majesty their
' Lordships have proceeded therein; which
' his Majesty conceiveth to have been
' upon the Knowledge they have, that
' he hath been restrained for matters of
' State. And his Majesty doth therefore
' give their Lordships Thanks for the
' same, and is resolved to put the Cause
' upon the Honour and Justice of their
' Lordship's and this House: And there-
' upon his Majesty commanded him (the
' Lord Keeper) to signify to their Lord-
' ships his Royal Pleasure, that the Earl
' of *Bristol* be sent for as a Delinquent, to
' answer in this House his Offences,
' committed in his Negotiations before
' his Majesty's being in *Spain*; and his
' Offences since his Majesty's coming
' from *Spain*; And his scandalizing the

' Duke of *Buckingham* immediately, and
' his Majesty by reflection; with whose
' Privy and by whose Directions the
' Duke did guide his Actions; and with-
' out which he did nothing. All which
' his Majesty will cause to be charged
' against him before their Lordships
' House.'

Whereupon the Earl of *Bristol* was
taken into custody of the Black Rod,
and by their Lordships order brought to
the Bar of the House of Peers on the
first of *May*; when Sir *Robert Heath*,
his Majesty's Attorney General, prefer-
red eleven Articles against him of the
following Tenor.

I. That the said Earl being employed
by the last King as Ambassador to *Fer-*
dinand Emperor of *Germany*, and to
Philip IV King of *Spain* in the Years
1621, 22 and 23: And having particular
direction to treat with the said Princes for
restoring the Territories of the Count
Palatine of the *Rhine*, who had married
the Princess *Elizabeth* only Daughter of
the late King; which were in a wrong-
ful and hostile manner, taken and posses-
sed by the Armies of the said Emperor
and King of *Spain*: And also to treat
of a Marriage between Prince *Charles*
(his present Majesty) and the Lady *Dou-*
na Maria Infanta of *Spain*, and Sister
to the said King of *Spain*; he the said
Earl contrary to the Trust reposed in
him, and to advance the designs of the
King of *Spain* against the late King, his
Children and Allies, falsly and traiterously
by Letters and Messages sent by him
from *Spain* to the late King and his Mi-
nisters, did advise and assure his Majesty;
That the Emperor and King of *Spain*
would fully and effectually make Restitu-
tion to the Elector *Palatine* and his Chil-
dren, of his said Territories and Electoral
Dignity. And that the King of *Spain*
did really intend the said Marriage be-
tween Prince *Charles* and his Sister *Dou-*
na Maria. Whereas in Truth, neither the
Emperor or King of *Spain* ever intended
such Restitution. Neither did the King
of *Spain* ever intend to marry the In-
fanta his Sister to the Prince. But the
said Emperor and King of *Spain* intend-
ed only by those Treaties to gain time
to compass their own ends to the detri-
ment of this Kingdom; of which the
Earl was not ignorant. And the King re-
lying on these false Assurances given him
by the Earl; the said Territories of the
Count *Palatine* were entirely lost.

II. That

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The Earl
brought to
the Lord's
Bar.

1625.

1 Car. I.

II. That he traiterously continued the said Treaties in Generalities, without pressing the King of *Spain* to come to any particular Conclusion, though his Instructions expressly required it; to the dishonour of his Majesty, the hazard of his Person and Dominions, and those of his Allies.

III. That he had discouraged his late Majesty from entering into a War with *Spain*; extolling and magnifying the Power of that Prince, whereby such Opportunities were lost as could never be recovered.

IV. That on his entering on his Embassy to *Spain*; He declared, That there was little Probability his Negotiations should meet with Success: But he cared not for that, for he would take care to have Instructions and pursue them punctually; and however the matter went, he would make his Fortune thereby.

V. That he intended if the said Marriage had taken effect, to advance the *Romish* Religion thereby, and discountenance the true Religion: And had persuaded his late Majesty to set the Jesuits and Popish Priests at liberty, and allow the Papists a Toleration.

VI. That his mysterious and dilatory Proceedings occasioned the Prince to make a Voyage into *Spain* to discover what might be depended on from that Court; to the great hazard of his Person and danger of the Kingdom, he being then Heir apparent to the Crown.

VII. That on the Prince's Arrival in *Spain*, he traiterously moved him to change his Religion.

VIII. The eighth Article is of the same import as the former.

IX. That a Proposal being made by the Court of *Spain* for the Count *Palatine's* Son to marry the Emperor's Daughter the Earl approved of it.

X. That the Desponsories being left with the Earl, on the Prince's return to *England*, he appointed a Day for the said Desponsaries, without any Assurance the Things would be granted, which his Instructions required.

XI. That he had preferred a scandalous Petition to the House of Peers, to the dishonour of his late Majesty, and of his present Majesty, giving him the Lye, and offering to falsify the Relation his Majesty had made of the Negotiation in *Spain*.

I. To the first Article as to the *Palatinate*, he answers, That He did all that

lay in his Power for the recovery of it: And did honestly and truly advertise his Majesty what he understood and thought upon that Head: And particularly He advised his Majesty's continuing his Preparations for War, in case an honourable Peace could not be obtained.

And as to the Match, He saith He never gave any hopes of their Proceedings, but such and the very same that were first given to him without adding or diminishing; and as well in that of the Match, as the other of the *Palatinate* his Advertisements were grounded upon all the Assurances both of Words and Writings that could possibly pass between Christians.

II. To the second the Earl says, That he did not deal in Generals, but most industriously laboured to settle all Particulars: That it was agreed that the Portion should be two Millions, and that the Dispensation coming, the Desponsories should be within forty Days after: That the time which had been spent had not been through the Earl's Default, in continuing upon Generalities, without pressing Particulars: But had been caused by Difficulties, which the Business brought with it: As also with exterior Accidents; viz. The Wars of *Bohemia*; the Death of two Popes, and the late King of *Spain*; without the least Fault of the said Earl's, as acknowledged by the late King in his Instructions: And it would appear by his Letters, that he had advised his late Majesty to appoint him a limited Time; by which the King of *Spain* should procure the Dispensation, or conclude the Match without it.

III. To the third he answers, That he never extolled or magnified the Power of the King of *Spain*; and had been so far from dissuading his late Majesty from entering into a War; that he had upon all just occasions advised, That all fitting Preparations of War might be made.

IV. To the fourth He answers, He never used these Words; *That he would make his Fortune by the Embassy*: But might say *he would pursue his Instructions punctually*: That it is true he thought the Match very unlikely to be effected; and advised his Majesty rather to a Protestant Match: But when both the King and Prince expressed an Inclination to the Match with *Spain*, he served them faithfully with his best Endeavours to accomplish it.

V. That

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V. That the very contrary to what was alledged in this Article was true, for he laboured to prevent all Inconveniences that might happen in point of Religion by this Match; and in the whole Treaty with *Spain*, was more strict in points of Religion, than by his Instructions he might have been; and never advised the setting the Jesuits at Liberty, or a Toleration of Popery, as it had appeared the Duke of *Bucks* had done.

VI. To the sixth he answers: That the Assurances he gave the Court of *England*, were founded upon as great Assurances as could pass between Ministers of Princes in the like Case. And for the Delays of *Spain* they could never with so little Colour be complained of as at the time the Prince, his present Majesty, came thither; for a certain Time was before then prefixed for the coming of the Dispensation, viz. in *April* 1623 at farthest, which was the next Month after the Prince's Arrival at *Madrid*. The Desponsories were to have been within four Days following, and the Infanta was to have begun her Journey into *England* twenty Days after; so that three Months Patience longer would have shewed the Issue of the Business, without putting the Person of the Prince, the Heir Apparent of the Crown in such imminent Danger by that hazardous Experiment, in which the Earl had no Hand, and the blame thereof is due to the Authors and Advisers of that Voyage, and not to him.

VII, and VIII. To the seventh and eighth he answers: That he did not move his Majesty, then Prince, to change his Religion, but confesses he told him that the general opinion of the Court of *Spain* was, That his coming into *Spain* was with an Intention to be a *Roman* Catholick, and there to declare it. And he confesseth, That at the same time in regard of those Things he had heard, he humbly besought his Majesty to deal freely with him as a Servant, of whose Fidelity he might be confident, or Words to that effect: But he was so far from persuading his Majesty to be a *Roman* Catholick, that without expecting his Majesty's Answer, he declared himself to be a Protestant, and so should always continue: Yet he said he should always serve his Majesty, and labour to advance his and the King his Father's Affairs, with as much Fidelity and Honesty, as any Catholick whatsoever: And his Majesty

was pleased then to make unto the said Earl a full and clear Declaration of his Religion, and of his constant Resolution therein; and seemed to be much displeased, that any should have so unworthy an opinion of him, as to think he would for a Wife, or any other earthly respect whatsoever, so much as waver in his Religion: And that thereupon he besought him that the *Spaniards* might not for any Respect, be longer held in hopes of that Point.

IX. To the ninth he answers: That by way of Discourse he did say he thought his late Majesty could not be averse either to the said Match, or to the breeding of the Prince *Palatine* his Son with the Emperor; so as thereby the whole Patrimonial Estate of the Prince *Palatine*, and the Dignity Electoral might be fully restored; and that his Son might be bred in his own Religion, and have such Preceptors, and such a Family as his late Majesty and his Father, meaning the Prince *Palatine*, should appoint; and they to have free exercise of Religion; for so his late Majesty has often declared himself to the said Earl, and wished him to lay hold on any occasion, for the entertaining of any such Proposition: And otherwise than so, and upon the Terms aforesaid, and by that way of Conference and Discourse only, he delivered not any opinion to his Majesty at his Majesty's being in *Spain*.

X. To the tenth the Earl answers: That he had carefully provided before the Proxies were to be executed to have a positive Answer in the Business of the *Palatinate*; viz. that the same should be restored according to his late Majesty's Desire; nor had he any Intention of proceeding to the Execution of the Desponsories before his Majesty and the Prince were satisfied of that Point of the *Infanta's* entering into Religion; and before Assurance should have been given of the performance of the temporal Articles, as his Instructions required.

XI. To the 11th he answers: That the said Petition is such as will not warrant any such Inference as is drawn from it in this Article; and he hoped to justify the Contents of it in such sort as should not displease his Majesty.

There does not appear to have been any farther Proceedings against the Earl of *Bristol* after the putting in of his Answer. One Reason whereof might be, that the Charge was irregularly pre-

1626.
2 Car. I.

No farther Proceedings on the Articles after the Earl's Answer.

1625.

1 Car. I.

ferred against him by the Attorney General; For the Proceedings against a Peer charged with High Treason, ought to be either upon an Indictment of the Grand Jury of the County where the Offence is supposed to have been committed, or upon an Impeachment of the House of Commons. There does not seem to be any other legal way of convicting a Peer, unless it be by an Act of Attainder made on purpose to cut him off without allowing him the benefit of a Tryal.

But farther: In this Case there does not appear to have been any Disposition in either House, to convict or attain the Earl; which alone was Reason sufficient to forbear any farther Prosecution. It might also have provoked both Houses to have acted with more violence against his avowed Enemy, the Duke of *Buckingham*, who at this time fell under their Displeasure, as will appear in the subsequent Proceeding.

As to the Character of the Earl of *Bristol*, it is thus summ'd up by the Lord *Clarendon*. Vol. II. P. 153.

The Earl's
Character,

John Digby Earl of *Bristol* was a Man of a grave Aspect, of a Presence that drew Respect, and of long experience in Affairs of great Importance. He had been by the extraordinary Favour, of King *James* to his Person (for he was a very handsome Man and his Parts which were naturally great, and had been improved by good Education at home and abroad,) sent Ambassador into *Spain*, before he was thirty Years of Age; and afterwards in several other Embassies; And at last again into *Spain*, where he treated and concluded the Marriage between the Prince of *Wales*, and that *Infanta*, which was afterwards dissolved. He was by King *James* made one of the Privy Council, Vice Chamberlain of the Household, an Earl, and a Gentleman of the Bed-Chamber to the Prince, And was then crushed by the Power of the Duke of *Buckingham*, and the prejudice the Prince himself had contracted against him, during his Highness's being in *Spain*; upon which he was imprisoned upon his return after the Duke's Death: The

King retained so strict a Memory of all that Duke's Friendships and Displeasures, that the Earl of *Bristol* could never recover any admission to the Court; but lived in the Country in Ease and Plenty in his Fortune, and in great Reputation with all who had not an implicit Reverence for the Court; and before and in the beginning of the Parliament appeared in the head of all the discontented Party; but quickly left them when they entered upon their unwarrantable Violences; and grew so much into their Disfavour, that after the King was gone to *York*, upon some Expressions he used in the House of Peers in Debate, they committed him to the Tower; From whence being released, in two or three Days he made hast to *York* to the King, who had before restored him to his place in the Council, and the Bed-chamber. He was with him at *Edge-bill*, and came with him from thence to *Oxford*, and at the end of the War went into *France*, where he died; That Party having so great an Animosity against him, that they would not suffer him to live in *England*, nor to compound for his Estate, as they suffered others to do, who had done them more hurt. Though he was a Man of great Parts, and a wise Man, yet he had been for the most part single, and by himself in Business; which he managed with good sufficiency; and had lived little in Concert: So that in Council he was passionate and supercilious; and did not bear Contradiction without much Passion; and was too voluminous in Discourse; so that he was not considered there with much Respect, to the lessening whereof no Man contributed more than his Son the Lord *Digby*; who shortly after came to sit there as Secretary of State, and had not that reverence for his Father's Wisdom, which his great Experience deserved, tho' he failed not in his Piety towards him.

Notwithstanding the Disobligations he met with from the Court at the beginning of the Reign of King *Charles* I. he published one of the best Apologies for that Prince that is extant. He died in Exile in the City of *Paris*, in the Year 1652.

1625.

1 Car. I.

Proceedings against THOMAS HOWARD, Earl of Arundel
for a Misdemeanour. 1626. 2 CAR. I. Earl of Arundel.

1626.
2 Car. I.
The Case.

THE Earl was committed to the Tower by his Majesty in time of Parliament without any Cause expressed in the Warrant. The House of Peers apprehending their Privileges to be affected thereby, and entering into Debates on the Earl's Case, the Lord Keeper delivered them the following Message from his Majesty, viz.

That the Earl of *Arundel* was restrained for a Misdemeanour, which was personal to his Majesty, and lay in the proper Knowledge of his Majesty, and had no Relation to Matters of Parliament.

This Message being looked upon as unparliamentary, in regard his Majesty took notice of the Debates of the House before they were communicated to him in a proper manner; the Lord Treasurer delivered another Message from the King the next Day, importing that he did avow the said Message as it was delivered the Day before to have been done punctually according to his Majesty's Direction; and knoweth that he hath thereupon done justly and not diminished the Privileges of that House.

A Committee being thereupon appointed to search Precedents; the first Question that arose amongst them was; Whether those Proxies were of any Validity, which were deputed to a Peer, who did not sit in Parliament himself; and it was conceived that those Votes were lost. Whereupon the Committee found the House to be deprived of five Suffrages by the absence of the Earl of *Arundel*, unto whom they were entrusted. They found also that no Peer had ever been committed, the Parliament sitting, without Judgment of the Peers in Parliament.

Whereupon the House addressed his Majesty, representing that it was an undoubted Right and constant Privilege of Parliament; That no Lord of Parliament, the Parliament sitting or within the usual times of Privilege of Parliament, is to be imprisoned or restrained without Sentence or order of the House, unless it be for Treason or Felony, or refusing to give Surety for the Peace.

son or Felony, or refusing to give Surety for the Peace.

And therefore the whole Body of Peers humbly besought his Majesty that the Earl of *Arundel*, a Member of their Body, might presently be admitted to sit and serve his Majesty and the Commonwealth in the great Affairs of the Parliament.

With which Address the whole House attended his Majesty: Who answered, that he would advise of it, and give them a full Answer in convenient time.

The Earl of *Arundel* being still restrained of his Liberty, the Lord Keeper was ordered to move his Majesty for an Answer to their Petition: Which not having the desired effect, the Lords presented another Petition to his Majesty; representing that there was at this Time great Business depending in the House, and therefore they became humble Suitors to him for a gracious and present Answer.

The King answered: He did not look for such a Message from the House: Therefore when he received a Message fit to come from them to their Sovereign; they should receive an Answer.

The Lords desiring to know what point of the Petition his Majesty took exception to: He answered, At the peremptoriness of the Term; To have a present Answer; And wondered at their impatience since he had promised them an Answer in convenient time.

Whereupon they altered their Petition, leaving out the Word *present*. And his Majesty then answered, They should have his Answer as soon as conveniently he could; and that it should be such an Answer as would not trench on the Privileges of the House.

In the mean time Sir *Dudley Diggs* having been committed for Words spoken in the House of Commons and released, the House of Peers took this occasion to present the following Address to his Majesty.

May

1626.
2 Car. I.

1626.
2 Car. I.

May it please Your Majesty,

'The Cause that moves us now to attend your Majesty (as at first we did) is because we observe that the House of Commons have speedily received a Member of theirs who was committed: We the Peers, ambitious to deserve of of your Majesty, and to appear to the Eye of the World as much respected in our Rights and Privileges, as any Peers or Commons have ever been, acknowledging you a King of as much Goodness as ever King was, do now humbly beseech, that the Earl of *Arundel*, a Member of our House, may be restored to us, it so much concerning us in point of Privilege, that we all suffer in what he suffers in this Restraint.'

To which his Majesty answered; If they believed him to be as good as they said, they had no reason to distrust the Sincerity of his Promises: That he had committed the Earl, for a Cause which most of them knew; And though it had been no more, he had reason to do it; But he had things of far greater Importance to lay to his Charge, which they must excuse him for revealing, because it would prejudice his Service to do it. Upon the Word of a King, he did not desire to delay them; as soon as possible they should know the Cause, which was such as he knew they would not judge a Breach of Privilege: He did not mean to shew the Power of a King by diminishing their Privileges.

The House having considered the King's Answer, preferred the following Petition to his Majesty on the 24th of May.

May it please Your Majesty,

'Whatever our Care and Desire is to preserve our Right of Peers, yet it is far from our thoughts either to distrust, or to press any thing that stands not with the Affection and Duty of most Dutiful and Loyal Subjects: And therefore in all humility we cast ourselves before your Majesty, assuring ourselves in the Word of a King, that with all conveniency possible, your Majesty will please either to restore the Peer to his place in Parliament, or express such a Cause as may not infringe our Privileges.'

With which the whole House attended his Majesty, and received the following Answer.

My Lords,

'Your often coming to me about this matter, made me somewhat doubt

'you did mistrust me; But now I see you rely wholly upon me, I assure you it shall prevail more upon me than all Importunities: And if you had done this at first, I should have given you content. And now I assure you, I will use all possible speed to give Satisfaction, and at the farthest, before the end of this Session of Parliament.'

Whereupon the House of Peers resolved, that all Business should be laid aside, and Consideration had how their Privileges might be preserved to Posterity.

Which the King being informed of, sent them a Message by the Lord Keeper, importing that he marvelled they should mistake his Answer, for their Petition was so acceptable to him, that his intent was then and is still to satisfy their Lordships fully in what they then desired.

Whereupon their Lordships adjourned for a Week: At the meeting of the House again on the second of June, the King sent them a Message by the Lord Keeper, That at the farthest by Wednesday sevenight of the 14th of June, he would either declare the Cause, or admit the Earl of *Arundel* into the House.

The House of Peers resolved thereupon that all Business should cease, but this of the Earl of *Arundel's* concerning the Privileges of the House. And the next Day they received a Message from the King to adjourn to the Thursday following, (the eighth of June) when they should receive his final Answer. And the House adjourned accordingly. And on Thursday they received a Message by the Lord Keeper, that his Majesty had taken off the restraint of the said Earl, whereby he had his liberty to come to the House.

The Earl being returned to the House, did render his humble Thanks unto his Majesty, for his gracious Favour towards him, and gave their Lordships also most hearty Thanks for their often Intercessions for him unto the King. And protested his Loyalty and faithful Service unto his Majesty.

The occasion of his Majesty's displeasure, and the Earl's Imprisonment it seems was the Earls marrying his eldest Son the Lord *Maltravers* to the Sister of the Duke of *Lenox*, a near Relation of the King's without his Majesty's Leave; Which he repented the more, because he was about to marry that Lady to the Lord *Lorn*, the Earl of *Argyle's* eldest Son.

Proceedings

1626.
2 Car. I.

The Earl set
at Liberty.

A few
Charg

Proceedings against GEORGE VILLARS, Duke of Buckingham, for High Treason and other Crimes.
Anno 1625, 1626. 1, 2 CAR. I.

1626.
2 Car. I.
The first
Charge a-
gainst the
Duke.

THE first Charge against the Duke of Buckingham, was made by the Spanish Ambassador, in the Reign of King James I, on the Duke's giving an Account of his Negotiation at the Court of Spain, when he attended Prince Charles thither, to treat of a Match between that Prince and the Infanta: The Ambassador thought some Expressions in the Duke's Narrative to reflect so much on the Honour and Integrity of his Master, that he had Assurance to demand the Duke's Head as a Satisfaction for the Affront. But both Houses of Parliament were so perfectly satisfied with the Relation, that they justified his Conduct in an address to the Throne, for which the King thanked them heartily; adding, that he believed the Duke to be an honest Man, and the rather because he was his Disciple.

A second
Charge.

The next Charge against the Duke was preferred by Doctor Turner, in the House of Commons, in the first Year of King Charles I, which the Doctor comprehended in six Queries of the following Tenor.

I. Whether the Duke, being Admiral, be not the Cause of the Loss of the King's Royalty in the narrow Seas.

II. Whether the unreasonable, exorbitant and immense Gifts of Money and Lands bestowed on the Duke and his Kindred, be not the Cause of impairing the King's Revenue, and impoverishing the Crown.

III. Whether the Multiplicity of Offices conferred upon the Duke, and others depending on him, (whereof they were not capable) be not the Cause of the evil Government of the Kingdom.

IV. Whether Recufants in general, by a kind of Connivancy, be not born out and increased, by reason of the Duke's Mother and Father-in-Law being known Papists.

V. Whether the Sale of Honours, Offices, and Places of Judicature and

Ecclesiastical Livings and Promotions (a Scandal and Hurt to the Kingdom) be not through the Duke.

1626.
2 Car. I.

VI. Whether the Duke's staying at Home, being Admiral and General in the Fleet of the Sea and Land-Army, were not the Cause of the bad Success and Overthrow of that Action; and whether he did give good Direction for that Design: (All these are famed to be so).

A Debate arising on these Queries, Mr Clement Coke, Son to Sir Edward Coke, among other severe Reflections on this Minister, said, *That it was better to die by a foreign Enemy, than to be destroyed at Home.* And Sir William Walter observed, *That the Cause of all their Grievances was, That all the King's Council rode upon one Horse.*

The King hereupon sent a Message to the Commons, wherein he reprov'd them for suffering Mr Coke's seditious Speech; and Doctor Turner's Queries to pass unpunished; observing that they were in reality levelled against his own, and his Father's Honour and Government. That he could not suffer such Enquiries to be made into the Conduct of the meanest of his Servants, much less against one so near to himself; and wondered at the foolish Impudence of any Man, who could think he would be induced to offer such a Sacrifice, unworthy the Greatness of a King and Master of such a Servant: And therefore desired the Justice of the House against the Delinquents. Doctor Turner hereupon justified himself in the House, and insisted that it was Parliamentary, and warranted by ancient Precedents to accuse upon Common Fame.

The Commons also drew up a Remonstrance, wherein they denied part of the Words said to have been spoken by Mr Coke; and excused Doctor Turner, insisting that their Proceedings against the Duke (or any other Subject in the

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1626.
2 Car. I.

like Cafe) to be according to the Rules of Parliament.

Then the Commons proceeded to draw up Articles against the Duke, of which they gave him Notice, acquainting him that he might have a Copy of the Articles, and that they should expect his Answer the same Day.

The Duke hereupon acquainted the Messengers sent to him by the Commons, that he had laid the Matter before the House of Peers, and they had commanded him not to answer.

It was afterwards debated in the House of Commons, whether the Committee appointed to draw up the Charge against the Duke, should consider of any new matter not already propounded, and particularly concerning a Plaister and Posset applied and given to the late King *James* in his Sickness, when the King's Sworn Physicians had agreed upon other Directions; and it was resolved that this should be annexed to their Charge.

A third Charge against the Duke, by the Earl of Bristol.

In the mean time the Earl of *Bristol*, who was prosecuted by the Attorney General for High Treason, at the Instance of the Duke of *Bucks* (as appears in the Proceedings immediately preceeding these) preferred Articles to the House of Peers, against the Duke of the following Tenor. viz. That the Duke of *Buckingham*, had conspired with *Gondomar* the *Spanish* Ambassador, to carry the Prince into *Spain*, and prevail on him there to change his Religion: That in *Spain* the Duke had frequented the Popish Service, and adored their Sacrament: That the Pope had sent a Bull to the Duke, to encourage him in the Perversion of the Prince: That he had broken the Match out of his own particular Ends and Indignation: And that he had abused King *James*, and both Houses of Parliament, by a sinister Relation of those Affairs. The Earl also preferred Articles against the Lord *Conway*, which were delivered and read at the same time being eleven in Number, all tending to prove the Lord *Conway* to be the Duke's Servant and Creature, and a Promoter and Abettor of all Miscarriages committed by the Duke. After reading the several Articles, the Lord's ordered, that the King's Charge against the Earl of *Bristol* should be first heard, and then the Charge of the Earl against the Duke; yet so that the Earl's Testimony against the Duke should not be prevented or pre-

Articles against the Lord *Conway*.

judiced. This occasioned a new Message from the King, by the Lord Keeper to this Effect: That the Articles exhibited against the Duke were such, as the King of his own Knowledge could testify his sincere Carriage in them; that they had been kept in the Earl's own Breast for two Years, contrary to his Duty, and were now vented by way of Recrimination; and that therefore they should put a difference between his Majesty's Charge, against one that appears as a Delinquent, and the Recrimination of the same Person against his Majesty's Witness.

While these Matters were under Debate in the House of Peers, the Impeachment of the Duke by the House of Commons was compleated, and on the 8th of May 1626, delivered at a Conference of both Houses, managed by eight of their Members, viz. Sir *Dudley Diggs*, Mr *Herbert*, Mr *Selden*, Mr *Glanvil*, Mr *Pym*, Mr *Sherland*, Mr *Wandesford*, and Sir *John Elliot*.

Sir *Dudley Diggs* opened the Conference, with thanking their Lordships for condescending to this Conference. He afterwards represented the publick Grievances and Complaints of the People, and then made this Application, viz. The Commons therefore wondering at the Evils which they suffered, debating of the Causes of them, found they were many, like many Lines to one Circumference, of decay of Trade and Strength, of Honour and Reputation in this Kingdom, which as in one Centre, met in one great Man the Cause of all, whom I am here to name the Duke of *Buckingham*. Then pausing a while, he read the Preamble to the Charge, and then spoke in general to the Grounds and Reasons of it; comparing the *English* Monarchy to the World, the Commons to the Earth and Sea, the King to the Sun, the Lords to the Stars and Planets, and the Duke of *Buckingham* to a prodigious Comet. And finally inferring, that all the Grievances complained of by the Commons, were to be imputed to the Duke only, and to his Procurement.

The Articles and the Duke's Answer to them, were of the following Tenor.

Article I. That he the said Duke, being young and unexperienced, had with exorbitant Ambition, and for his own Advantage procured and engrossed into his own Hands several great Offices.

1626.
2 Car. I.

The Duke impeached by the Commons.

The Articles prefixed against him, and his Answer.

The

1626.
2 Car. I.

The Duke's Answer. As to the Places he holds, three only are worthy the Names of Offices, viz. The Admiralty, the Wardenship of the Cinque Ports, and Mastership of the Horse; for which he acknowledgeth the Bounty and Goodness of his Most Gracious Master, who prevented his Desires in asking for them: And that there be many Precedents both in ancient and modern Times, that one Man, eminent in the Esteem of his Sovereign, hath at one time held as great and as many Offices.

Article II. That he the said Duke, in the 16th of the late King, did give to the Earl of Nottingham, for the Office of Admiral 3000 *l.* and did procure from the late King an Annuity of 1000 *l.* per Annum, to be paid to the said Earl, for his Surrendry, to obtain to himself a Grant of the said Office during life.

The Duke's Answer. That he obtained a Grant of the Office of Admiralty freely, and without any Contract or Bargain with the late Lord Admiral, who surrendered it willingly without any Promise, and received a Pension at the King's own free Will and Pleasure. And he affirms that his Majesty's Navy, is in better State by much, than ever it was in any precedent time whatsoever.

Article III. That in the 22d of the late King, he gave to Edward Lord Zouch, Lord Warden of the Cinque Ports for surrender of the said Office 1000 *l.* and procured him an Annuity of five hundred Pounds yearly.

The Duke's Answer. That the Lord Zouch being grown in Years, and unfit to execute so great a Trust, and willing to resign it, and treating with other Noblemen upon some recompence for it, he did indeed agree to give him 1000 *l.* in Money, and 500 *l.* yearly for his said Surrender, the King being privy to it, and his own Intentions therein being Just and Honourable.

Article IV. That the said Duke, by reason of his said Offices, ought to have safely guarded the Seas: Whereas, ever since the Dissolution of the two Treaties 21 Jacobi, he had neglected the Performance of his said Office and Duty, and broken the Trust committed to him.

The Duke's Answer. Whatever Losses have happened to the King's Subjects during that time, are not owing to his want of Care and Diligence: For that he had encreased the ordinary Guard allowed for the narrow Seas, and such

farther Provision is now made as will give good Satisfaction.

Article V. That a Ship called the St Peter of Newhaven, laden with Goods of the Subjects of France, in time of Peace with that Kingdom, was taken at Sea, by Direction of the said Duke, and brought to Plymouth as a Prize; where divers Goods to the value of twenty thousand Pounds, were taken out for the Benefit of the said Duke, and the Ship with the Residue of her Goods, sent into the River of Thames, and there detained. Upon which there was an Arrest at Newhaven of two English Merchant Ships, to the great Disturbance of Trade and Prejudice of the Merchants.

The Duke's Answer. He sets forth the Fact, and hopes it will sufficiently appear, that he hath not done any thing herein which was not justifiable, and grounded upon deliberate and well advised Counsels and Warrants.

Article VI. That the said Duke abusing the Lords of the Parliament in the 21st of King James, with Pretence of serving the State, did oppress the East India Merchants; and extorted from them ten thousand Pounds, to release their Ships which he had stopp'd from their intended Voyage.

The Duke's Answer. He reciteth the matter of Fact, and proves the Composition made by the Company with his late Majesty, by legal Proceedings and Advice of Council: And refers himself to the judicial Acts, which prove the contrary to what is alledged against him.

Article VII. That about the End of July last, he the said Duke, as Admiral, did, by indirect and subtil Means and Practises, procure one of the principal Ships of his Majesty's Royal Navy, called the Vanguard, and six other Merchant Ships, to be put into the Hands of the French King.

The Duke's Answer. That this Article was so mixed with the Actions of great Princes, that he dared not, in his Duty, publish every Passage thereof: But he could affirm, that those Ships were lent to the French King at first without his privy, and when he knew it, he did that which belonged to an Admiral of England, and a true Englishman.

Article VIII. That the said Duke, knowing the said Ships were intended to be employed against those of the reformed Religion in the Town of Rochel, did procure the said Ships to be delivered, that they

1626.
2 Car. I.

Arti-
prefixed
inst him,
his An-
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1626.
2 Car. I.

they may be so used and employed, as they accordingly were against the Town of Rochel.

The Duke's Answer. That he was so far from practising, or consenting that the said Ships should be so employed, that he believed the Pretence of the French King, that he would use those Ships against Genoa. And when it was discovered that they would be employed against those of that Religion, he did, by all fit and honourable Means, endeavour to divert that Course.

Article IX. That whereas Titles of Honour were wont to be conferred as the Rewards only of Virtue and Industry, he the said Duke had perverted that ancient and most honourable way, and had enforced some that were rich to purchase Honour: As the Lord R—— Baron of F——, to the Prejudice of the Gentry, and Dishonour of the Nobility.

The Duke's Answer. He utterly denies compelling the Lord R—— to buy his Title of Honour, who was before willing to have given a much greater Sum, but could not then obtain it: And he did now obtain it by Solicitation of his own Agents.

Article X. That whereas no Places of Judicature ought to be procured for any Reward, Bribe or Gift, he the said Duke, in the 18th of King James, did procure of the said King, the Office of High Treasurer of England, to the Lord Viscount M—— now Earl of M——, for the Reward of twenty thousand Pounds: And in the 16th of the said King, did procure the Office of the Master of the Wards for Sir L. C. afterwards Earl of M—— for the Reward of six thousand Pounds.

The Duke's Answer. That he received not nor had a Penny of either of those Sums to his own Use: Nor did he know of the Procurement of them.

Article XI. That he had procured divers Titles of Honour to his Mother, Brothers, Kindred and Allies of small Estates, to the Prejudice of the Nobility and the Damage of the Crown.

The Duke's Answer. That as to procuring some few Honours for those who were so near and dear unto him, the Law of Nature and the King's Royal Favour may plead for his Excuse.

Article XII. That he had obtained a Grant from the Crown of divers Mannors, Parcel of the Duchy of Lancaster, and of other Lands and Rents belonging to the Crown; and had likewise received

exceeding great Sums of Money for his own Use without Accompt, to the great Diminution of the Revenues of the Crown, according to Schedules annexed.

The Duke's Answer. That he doth acknowledge the bountiful Hands of his late Majesty; But as to the immense Sums and Values which are suggested to have been given to him, there be great Mistakes in the Schedules, to which he will give particular Answer in another Schedule.

Article XIII. That whereas nothing ought to be administered to the royal Persons of Kings in their Sickness, without Consent and Direction of some of their known Physicians, the said Duke without any sufficient Warrant, did unduly cause and procure certain Plaisters, and a certain Drink or Potion to be given to his late Majesty, after which divers ill Symptoms did appear in his said Majesty, who did attribute the Cause of his growing worse, to the said Plaister and Drink.

The Duke's Answer. That he was by infinite Bonds of Duty and Thankfulness, obliged to be tender of the Life and Health of his late Sovereign Master: That he did neither apply nor procure the Plaister or Posset-drink, in the Charge termed a Potion, to his late Majesty, nor was present when the same was first taken or applied. But that his Majesty being sick of an Ague, enquired how the Duke had lately recovered from the like Distemper: And he told his Majesty, that the Earl of Warwick's Physician had cured him with a Plaister and Posset-drink. The King desired to have the like Medicines sent for, but the Duke delayed it, till the King commanded them to be fetched by an express Messenger, and first took them in his, the Duke's, Absence. When the King grew worse, he the Duke heard a Rumor as if his Physick had done the King hurt; And that he the Duke had administered it without Advice. The Duke acquainted the King herewith: His Majesty with much Discontent, answered thus: *They are worse than Devils that say it.* He humbly prays their Lordships not only to consider the Truth of this Matter, but also to commiserate the sad Thought which this Article hath revived in him.

The several Articles having been enlarged and aggravated by the respective Members chosen out for Management, Sir John Elliot concluded the Impeachment in a bitter Speech, ending thus:

1626.

2 Car. I.

Sir John Elliot's Speech on reading the Article.

'I conclude, by presenting to your Lordships the particular Censure of the Bishop of Ely, reported in the 2d of Rich. I. and to give you a short View of his Faults; He was first of all noted to be luxurious: Secondly, He married his own Kindred to Personages of highest Rank and Places. Thirdly, No Man's Business was done without his Help. Fourthly, He would not suffer the King's Council to advise in Matters of State. Fifthly, He grew to such a height of Pride, that no Man was thought worthy to speak unto him. And Lastly, His Castles and Forts he did obscuris & ignotis hominibus tradere. His Doom was this, *Per totam Insulam publice proclamatur; pereat qui perdere cuncta festinat; opprimatur ne omnes opprimat.*

The Duke concluded his Answer, with referring all to the Judgment of their Lordships: Observing how easy it was for him in his younger Years, and unexperienced, to fall into thousands of Errors; but hoping he had been preserved from running into any heinous and high Misdemeanors and Crimes: In whatsoever he had unwillingly offended, he claimed the Benefit of his late and present Majesty's Pardon; and hopeth, and will daily pray, that for the future he shall, by God's Grace, so watch over his Actions both publick and private, that he shall not give any just Offence to any.

The King soon after caused Sir Dudley Diggs who opened the Impeachment, and Sir John Elliot who concluded the last Article, to be committed to the Tower; And on the 11th of May the King came to the House of Lords, and in a short Speech vindicated the Duke of Bucks, declaring, That he could clear him of every one of the Articles of which he was accused.

The Commons however sent up a Message to the Lords, in which they declared, That it was of dangerous Consequence, that a Man of so great Eminence and Power, who stood impeached and accused of such high Crimes and Offences, should enjoy his Liberty: And therefore made it their unanimous Request, that their Lordships would forthwith commit the Person of the Duke to safe Custody.

The Duke hereupon made a Speech, desiring his Tryal might be hastened, and that he might not suffer by unnecessary Delays; adding, 'My Accuser hath not been content to make my Process, but to prescribe to your Lordships the man-

ner of your Judgment, and to judge me before I am heard; I shall not therefore give Way to any of their unjust Demands.' And the House of Peers suffering the Duke still to remain at Liberty, the Commons were so incens'd, that they resolv'd to proceed to no other Business, till they had Satisfaction in this Cause.

The Words ascrib'd to Sir Dudley Diggs were, *That he did forbear to speak farther of that* (meaning the Plaster applied to his late Majesty,) *in regard of the King's Honour:* Upon which a Protestation was drawn up, and thus taken by every Member.

I protest before Almighty God, and this House of Parliament, that I never gave Consent that Sir Dudley Diggs should speak these Words, that he is now charg'd withal, or any Words to that Effect: And I have not affirmed to any that he did speak such Words, or any to that Effect.

Within a few Days after Sir Dudley was released from the Tower, and coming into the House, made there a Protestation, that the Expression charged upon him was far from his Words, and never came into his Thoughts. He thank'd the House for their Respects unto him; and said, he had received from His Majesty a gracious Testimony of his Satisfaction. But still the Duke could not digest the Affront. He affirmed to the House of Peers, that some Words were spoken at the late Conference by Sir Dudley Diggs, which so far did trench upon the King's Honour, that they are interpreted treasonable. After long Debate, Thirty Six Lords made a voluntary Protestation upon their Honours, *That the said Sir Dudley Diggs did not speak any thing at the said Conference, which did or might trench upon the King's Honour; and if he had, they would presently have reprehended him for it.*

Not long after Sir John Elliot [was also released, and coming into the House, discharged himself of the offensive Passages in his late Charge against the Duke, and obtained a Vote of the House, that he had not exceeded the Commission given him in the late Conference.

The Commons afterwards proceeded to petition his Majesty not to suffer the Duke of Bucks to have any Access to his Royal Presence: Which not being complied with, they prepared a Remonstrance, observing therein, that the Duke before the Choice of this Parliament, procured

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but the Lords leave him at Liberty.

The Commons protest.

Sir Dudley Diggs and Sir John Elliot committed.

The Commons insist the Duke should be committed.

The Commons address the King, that the Duke may not have Access to him, which is not complied with.

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they draw up
a Remon-
strance;

cured several of the late Members to be made Sheriffs, to preclude them from the Service of the House. — That enquiring into Grievances, they found the most pressing and comprehensive Mischief and Grievance they suffered, was fundamentally settled in the vast Power and enormous Actions of the said Duke. — They therefore made a Parliamentary Charge against him, — in which they had been interrupted and diverted by Messages procured through Misinformation from his Majesty. — Two of their Members had been committed to close Imprisonment, — Notwithstanding their Declaration against the Duke for Plurality of Offices, he had since procured the Office of Chancellor of the University of Cambridge; — And they could not hope for the Service of his Majesty, and the Safety of the Nation, so long as they thus suffered under the Pressures of the Power and Ambition of the said Duke. — That his Majesty had been advised to new Councils, and in particular to levy the Subsidies of Tonnage and Poundage, Which determin'd upon the Death of his Royal Father, and were never payable to any of his Majesty's Ancestors, but only by a special Act of Parliament. — They protest to his Majesty and the whole World therefore, that, until this great Person be removed, they are out of hope of any good Success; — But no sooner should they receive Redress and Relief in this, but they should proceed to accomplish his Majesty's Desires.

but are dissolved before they can present it:

The King, to prevent the Commons presenting him this Remonstrance, suddenly caus'd the Parliament to be dissolved by Commission on the 15th of June, which put a Stop to the further Prosecution of the Duke. And I don't find that the Impeachment ever was revived afterwards.

An Information preferred against the Duke.

But the King, in order to give the Duke an Opportunity of making his Innocence appear, caused an Information to be preferred against him in the Star-Chamber; Containing in Substance the same Offences as were charg'd in the Impeachment, particularly his administering a Plaster to the late King James. To which the Duke put in his Answer, and Witnesses were examined, whose Testimony, I presume, acquitted him of that Calumny; because *Rusworth*, nor

any other of his Enemies have thought fit to publish these Depositions.

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The Character of the Duke of Buckingham from the Earl of Clarendon:

THE Duke was a very extraordinary Person, and never any Man in any Age, nor, I believe, in any Country, or Nation, rose in so short a time to so much Greatness and Honour, Fame and Fortune, upon no other Advantage or Recommendation, than of the Beauty and Gracefulness of his Person. I have not the least Purpose of undervaluing his good Parts and Qualities (of which there will be occasion shortly to give some Testimony) when I say, that his first Introduction into Favour, was purely from the Handsomeness of his Person.

His Character.

He was a younger Son of Sir George Villiers of Brookeby in the County of Leicester, a Family of an ancient Extraction, even from the time of the Conquest; And transported then with the Conqueror out of Normandy, where the Family remained, and still continues with Lustre. After Sir George's first Marriage; in which he had two or three Sons and some Daughters, who shared an ample Inheritance from him, by a second Marriage with a Lady of the Family of the Beaumonts, he had this Gentleman, and two other Sons and a Daughter, who all came afterwards to be raised to great Titles and Dignities. George the eldest Son of this second Bed, was after the Death of his Father, by the singular Affection and Care of his Mother, who enjoyed a good Joynture in the Account of that Age, well brought up. And for the Improvement of his Education, and giving an Ornament to his hopeful Person, he was by her sent into France, where he spent two or three Years in attaining the Language, and in learning the Exercises of Riding and Dancing: In the last of which he excelled most Men, and returned into England by the Time he was Twenty one Years old.

King James reigned at that Time: And though he was a Prince of more Learning and Knowledge than any other of that Age; and really delighted more in Books, and in the Conversation of learned Men, yet of all wise Men living, he

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he was the most delighted and taken with handsome Persons and with fine Cloaths. He began to be weary of his Favourite the Earl of *Somerset*, who was the only Favourite that kept that Post so long, without any publick Reproach from the People. But by the Instigation and Wickedness of his Wife, he became at least privy to an horrible Murder (the Poisoning of Sir *Thomas Overbury*;) upon which both he and his Wife were condemned to die, after a Tryal by their Peers; and many Persons of Quality were executed for the same.

Whilst this was in agitation, and before the utmost discovery was made, Mr *Villiers* appeared in Court, and drew the King's Eyes upon him. There were enough in the Court sufficiently angry, and incensed against *Somerset*, for being what themselves desired to be; and especially for being a *Scotsman*, and ascending in so short a Time from being a Page, to the height he was then at, to contribute all they could to promote the one and throw out the other: Which being brought to pass by the Proceeding of the Law upon his aforesaid Crime, the other found very little difficulty in rendring himself gracious to the King, whose Nature and Disposition was very flowing in Affection towards Persons so adorned. Insomuch that in few Days after his first Apperance in Court, he was made Cup-bearer to the King: By which he was of course to be much in his Presence, and so admitted to that Conversation and Discourse, with which that Prince always abounded at his meals.

His Inclinations to his new Cup-bearer disposed him to administer frequent occasions of discoursing of the Court of *France*, and the Transactions there: With which he had been so lately acquainted; that he could pertinently enlarge upon that Subject to the King's great Delight; and to the gaining the Esteem and Value of all the Standers-by to himself, which was a thing the King was well pleased with. He had acted very few Weeks upon this Stage, when he mounted higher; and being Knighted, without any other Qualification, he was at the same time made Gentleman of the Bed-Chamber, and Knight of the Order of the Garter; and in a short Time (very short for such a prodigious Ascent) he was made a Baron, a Viscount, an Earl, a Marquis; and be-

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came Lord High Admiral of *England*, Lord Warden of the Cinque Ports, Master of the Horse, and entirely disposed of all the Graces of the King, in conferring all the Honours and all the Offices of three Kingdoms without a Rival: In dispensing whereof, he was guided more by the Rules of Appetite, than of Judgment; and so exalted almost all of his own numerous Family and Dependants; whose greatest Merit was their Alliance to him, which equally offended the ancient Nobility and the People of all Conditions, who saw the Flowers of the Crown every Day fading and withered, whilst the Demesnes and Revenues thereof were sacrificed to the enriching a private Family, (how well soever originally extracted) scarce ever heard of before to the Nation: And the Expences of the Court so vast and unlimited, that they had a sad Prospect of that Poverty and Necessity, which afterwards beset the Crown, almost to the Ruin of it.

Many were of Opinion that King *James*, before his Death, grew weary of this Favourite; and that, if he had lived, he would have deprived him at least of his large and unlimited Power. And this Imagination so prevailed with some Men, as the Lord Keeper *Lincoln*, the Earl of *Middlesex*, Lord High Treasurer of *England*, and other Gentlemen of Name, though not in so high Stations, that they had the Courage to withdraw from their absolute Dependance upon the Duke, and to make some other Essays, which proved to the ruin of every one of them; there appearing no Mark or Evidence, that the King did really lessen his Affection to him, to the Hour of his Death: On the contrary, as he created him Duke of *Buckingham* in his Absence, whilst he was with the Prince in *Spain*; so after their Return, the Duke executed the same Authority in conferring all Favours and Graces, and in revenging himself upon those who had manifested any Unkindness. And yet, notwithstanding all this, if that King's Nature had equally disposed him to pull down, as to build and erect, and if his Courage and Severity in punishing and reforming, had been as great as his Generosity and Inclination was to oblige, it is not to be doubted, but that he would have withdrawn his Affection from the Duke entirely before his Death; which those Persons,

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Persons, who were admitted to any Privacy with him, and were not in the Confidence of the other, (for before those he knew well how to dissemble) had reason enough to expect.

This Great Man was a Person of a noble Nature and generous Disposition, and of such other Endowments, as made him very capable of being a great Favourite to a great King. He understood the Arts of a Court, and all the Learning that is profess'd there exactly well. By long Practice in Business, under a Master *that discoursed excellently, and surely knew all Things wonderfully,* and took much delight in introducing his young unexperienc'd Favourite, who he knew would be always look'd upon as the Workmanship of his own Hands, he had obtained a quick Conception and Apprehension of Business, and had the Habit of speaking very gracefully and pertinently. He was of a most flowing Courtesy and Affability to all Men who made any Address to him; and so desirous to oblige them, that he did not enough consider the value of the Obligation, or the Merit of the Person he chose to oblige; from which much of his Misfortune resulted. He was of a Courage not to be daunted, which was manifested in all his Actions, and in his Contests with particular Persons of the greatest Reputation; and especially in his whole Demeanour at the Isle of *Rhee*, both at the Landing, and upon the Retreat: In both which, no Man was more fearless, or more ready to expose himself to the highest Dangers. His Kindness and Affection to his Friends was so vehement, that they were as so many Marriages for better and worse, and so many Leagues offensive and defensive: As if he thought himself oblig'd to love all his Friends, and to make War upon all they were angry with, let the Cause be what it would. And it cannot be denied, that he was an Enemy in the same Excess, and prosecuted those he looked upon as his Enemies with the utmost Rigour and Animosity, and was not easily induced to Reconciliation. And yet there were some Examples of his receding in that particular. And when he was in the highest Passion, he was so far from stooping to any Dissimulation, whereby his Displeasure might be concealed and covered till he attained his Revenge, (the low Method of Courts) that he

never endeavoured to do any Man an ill Office, before he first told him what he was to expect from him; and reproached him with the Injuries he had done with so much Generosity, that the Person found it in his Power to receive farther Satisfaction in the way he would choose for himself.

His single Misfortune was, (which indeed was productive of many greater) that he never made a noble and worthy Friendship with a Man so near his equal, that he would frankly advise him for his Honour and true Interest against the Current, or rather the Torrent of his impetuous Passions: Which was partly the Vice of the Time, when the Court was not replenished with great Choice of excellent Men; and partly the Vice of the Persons who were most worthy to be applied to, and looked upon his Youth and his Obscurity before his Rise, as Obligations upon him to gain their Friendships by extraordinary Application: Then his Ascent was so quick, that it seemed rather a Flight than a Growth: And he was such a Darling of Fortune, that he was at the Top, before he was well seen at the Bottom: And as if he had been born a Favourite, he was Supreme the first Month he came to Court: And it was Want of Confidence not of Credit, that he had not all at first, which he obtained afterwards; never meeting with the least Obstruction from his setting out till he was as Great as he could be: So that he wanted Dependants before he thought he could want Coadjutors. Nor was he very fortunate in the Election of those Dependants, very few of his Servants having been ever qualified enough to assist or advise him; and they were intent only upon growing rich under him, not upon their Master's growing good as well as great: Inasmuch as he was throughout his Fortune a much wiser Man than any Servant or Friend he had.

Let the Fault or Misfortune be what or whence it will, it may reasonably be believed, that if he had been blest with one faithful Friend, who had been qualified with Wisdom and Integrity, that great Person would have committed as few Faults, and done as transcendent worthy Actions, as any Man who shin'd in such a Sphere in that Age in Europe: For he was of an excellent

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‘cellent Disposition, and of a Mind very capable of Advice and Council. He was in his Nature just and candid, liberal, generous and bountiful: Nor was it ever known, that the Temptation of Money sway’d him to do an unjust or unkind thing: And tho’ he left a very great Estate to his Heirs, considering the vast Fortune he inherited by his Wife, the sole Daughter and Heir of *Francis* Earl of *Rutland*, he ow’d no Part of it to his own Industry or Sollicitation, but to the impatent Humour of two Kings his Masters, who would make his Fortune equal to his Titles; and the one as much above other Men as the other was. And he considered it no otherwise than as theirs, and left it at his Death engaged for the Crown almost to the Value of it.

‘If he had an immoderate Ambition, with which he was charged, and is a Weed, (if it be a Weed) apt to grow in the best Soils; it doth not appear that it was in his Nature; or that he brought it with him to the Court, but rather found it there, and was a Garment necessary for that Air. Nor was it more in his Power to be without Promotion and Titles and Wealth, than for a healthy Man to sit in the Sun in the brightest Dog-Days, and remain without any Warmth. He needed no Ambition who was so seated in the Hearts of two such Masters.

‘There are two particulars which lie heaviest upon his Memory, either of them aggravated by Circumstances very important, and which administered frequent Occasions by their Effects to be remembred.

‘The First, his engaging his old unwilling Master and the Kingdom in the War with *Spain*, (not to mention the bold Journey thither, or the Breach of that Match) in a Time when the Crown was so poor, and the People more inclin’d to a bold Enquiry how it came to be so, than dutiful to provide for it’s Supply; and this only upon personal Animosities between him and the Duke of *Olivarez*, the sole Favourite in that Court. And those Animosities upon very trivial Provocations, which flowed indeed from no other Fountain, than that the Nature and Education of *Spain* restrained Men from that Gaiety and frolique Humour, to which the Prince’s Court was more inclin’d. And *Olivarez* had been heard to censure very severely

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‘the Duke’s Familiarity and want of Respect towards the Prince (a Crime monstrous to the *Spaniard*) and had said, that if the Infanta did not, as soon as she was married, suppress that Licence, she would herself quickly undergo the Mischiefe of it; which gave the first Alarm to the Duke to apprehend his own Ruin in that Union, and accordingly to use all his Endeavours to break and prevent it. And from that Time he took all Occasions to quarrel with, and reproach the Conde Duke.

‘The other Particular by which he involved himself in so many fatal Intricacies, from which he could never extricate himself, was his running violently into the War with *France*, without any kind of Provocation, and upon a particular Passion very unwarrantable. In his Embassy in *France*, where his Person and Presence was wonderfully admired and esteemed, (and in truth it was a Wonder in the Eyes of all Men) and in which he appeared with all the Lustre the Wealth of *England* could adorn him with; and outshin’d all the Bravery that Court could dress it self in; and overacted the whole Nation in their own most peculiar Vanities, he had the Ambition to fix his Eyes upon, and to dedicate his most violent Affection to a Lady of very sublime Quality; and to pursue it with most importunate Addresses: Infomuch as when the King had brought the Queen his Sister as far as he meant to do, and delivered her into the Hands of the Duke to be by him conducted into *England*, the Duke in his Journey after the Departure from that Court, took a Resolution once more to make a Visit to that Great Lady, which he believed he might do with much Privacy. But it was so easily discovered, that Provision was made for his Reception. And if he had pursued his Attempt, he had been without Doubt assassinated; of which he had only so much Notice, as served him to decline the Danger. But he swore in the Instant, that he would see and speak with that Lady, in Spight of the Strength and Power of *France*. And from the Time that the Queen arriv’d in *England*, he took all the Ways he could to undervalue and exasperate that Court and Nation, by causing all those who fled into *England* from the Justice and

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Displeasure of that King, to be received and entertained here not only with Ceremony and Security, but with Bounty and Magnificence. And the more extraordinary the Persons were, and the more notorious their King's Displeasure was towards them (as in that Time there were very many Lords and Ladies in those Circumstances) the more respectfully they were received and esteemed. He omitted no opportunity to incense the King against *France*, and to dispose him to assist the *Hugonots*, whom he likewise encouraged to give their King some Trouble.

And which was worse than all this, he took great Pains to lessen the King's Affection towards his young Queen, being exceedingly jealous lest her Interest might be of Force enough to cross his other Designs. And in this Stratagem he so far swerved from the Instinct of his Nature and his proper Inclinations, that he who was compounded of all the Elements of Affability and Courtesy towards all kind of People, had brought himself to a Habit of Neglect, and even of Rudeness towards the Queen.

One Day, when he unjustly apprehended that she had shewed some Disrespect to his Mother, in not going to her Lodging at an Hour she had intended to go, and was hindered by a mere Accident, he came into her Chamber with much passion; and after some Expostulations rude enough, he told her she should repent it. Her Majesty answering with some Quickness, he replied insolently to her, "That there had been Queens enough in *England* who had lost their Heads. And it was universally known, that during his Life, the Queen never had any Credit with the King, with Reference to any pub-

lick Affairs, and so could not divert the Resolution of making a War with *France*."

And it cannot be denied that from these two Wars so wretchedly entered into, and the Circumstances before mentioned, and which flowed from thence, the Duke's Ruin took it's Date; and never left pursuing him till that execrable Act upon his Person, the Malice whereof was contracted by that sole evil Spirit of the Time, without any Partner in the Conspiracy. And the Venom of that Season increased and got Vigour, until from one Licence to another, it proceeded till the Nation was corrupted to that monstrous Degree, that it grew satiated and weary of the Government itself; under which it had enjoyed a greater Measure of Felicity, than any Nation was ever possessed of; and which could never be continued to them but under the same Government. And as these Calamities originally sprung from the inordinate Appetite and Passion of this Young Man, under the too much Easiness of two indulgent Masters, and the Concurrence of a thousand other Accidents; So if he had lived longer, the Observation and Experience he had gained, which had very much improv'd his Understanding, with the Greatness of his Spirit, and Jealousy of his Master's Honour, (to whom his Fidelity was superior to any Temptation) might have repair'd many of the Inconveniencies which he had introduced; and would have prevented the Mischiefs which were the natural Effects of those Causes.

He was assassinated by *Felton*, a discontented Lieutenant, at *Portsmouth* on *Bartholomew Day*, 1628; being then in the 26th Year of his Age, as will be shewn in a future Proceeding.

Proceedings

Proceedings against JOHN FELTON, Gent. for Murder. *Felton.*
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His Crime.

FELTON being charged with stabbing the Duke of Buckingham at Portsmouth, and brought before the Magistrates of that Town, it was demanded of him, at whose Instigation he had committed that execrable Fact; he resolutely answered, 'That their Enquiry was needless; that no Man living had Interest enough with him to dispose him to such an Action; That it proceeded merely from the Impulse of his own Conscience; That he had fixed his Motives to it in his Hat, because he thought he might probably perish in the Attempt; That the House of Commons having declared the Duke the principal Cause of all the Evils the Kingdom suffered, he thought in killing him he should do God good Service.'

Torture held to be illegal.

Being afterwards conveyed to London, and examined by the Privy-Council, who threatened him with the Rack, if he refused to discover who put him upon committing the Fact. He answered, 'No Man put him upon it, and if they put him to the Torture, he knew not which of their Lordships he should name; For Torture might draw unexpected Things from him.' And being sent back to Prison, the Council began to debate, whether by the Law of the Land they could justify the putting him to the Rack. The King being at Council said, before any such Thing be done, let the Advice of the Judges be had therein, whether it be legal or no. And afterwards his Majesty the 13th of November, 4. Car. propounded the Question to Sir Thomas Richardson, Lord Chief Justice of the Common Pleas, to be propounded to all the Justices, (*viz.*) Felton now a Prisoner in the Tower, having confessed that he hath killed the Duke of Buckingham, and said he was induced to this, partly for private Displeasure, and partly by Reason of a Remonstrance in Parliament; having also read some Books which, he said, defended, that it was lawful to kill an Enemy to the Re-

publick; The Question therefore is, whether by the Law he might not be racked, and whether there were any Law against it. For (said the King) if it might not be done by Law, he would not use his Prerogative in this Point. And having put this Question to the Lord Chief Justice, the King commanded him to demand the Resolution of all the Judges.

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Whereupon first the Justices of Serjeants-Inn in Chancery-Lane did meet and agree, that the King may not in this Case put the Party to the Rack. And the 14th of November all the Justices being assembled at Serjeants-Inn in Fleet-street, agreed, that he ought not by the Law to be tortured by the Rack: For no such Punishment is known or allowed by our Law.

On the 27th of November Felton was brought to his Tryal at the Kings-Bench Bar; and the Indictment for Murder, which was drawn up in the usual Form, being read to him, and the Question put, Whether he was guilty of the Murder charg'd upon him; he answered, 'He was guilty in killing the Duke of Buckingham; And further said, That he did deserve Death for the same, though he did not do it out of Malice.' The Court proceeded to pass Sentence of Death upon him. He offered that Hand to be cut off that did the Fact, but the Court could not, upon his own Offer, inflict that farther Punishment upon him. Nevertheless the King sent to the Judges to intimate his Desire, that his Hand might be cut off before Execution. But the Court answered, that it could not be; for in all Murders the Judgment was the same. In Queen Elizabeth's Time, when a Felon at the Bar flung a Stone at a Judge upon the Bench, he was indicted; and his Sentence was to have his Hand cut off, which was accordingly done. And then they proceeded against him upon the other Indictment for Felony, for which he was found guilty, and afterwards hanged.

He confesses his Guilt.

and is condemned.

The Sentence in Felony always the same.

Felton executed.

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Some Account of him and the Fact for which he was executed.

Felton was hung in Chains after the Execution, as is usual in notorious Murderers.

Felton had been a Lieutenant under Sir *John Ramsay*, and was of a good Family in *Suffolk*; but being refus'd a Company by the Duke, when his Captain was kill'd in the Expedition to the Isle of *Rhee*, he threw up his Commission: And now the Duke being come down to *Portsmouth*, in order to embark with an Army for the Relief of *Rochelle*; he took this Opportunity of gratifying his Revenge, as well as expressing his Zeal for the *Puritan* Cause. And accordingly about nine o'Clock on *Saturday* Morning, being the 23^d of *August*, he repaired to the Room where the Duke was dressing and preparing to eat; which was fill'd with Persons of Quality and Officers of the Army, and particularly Monsieur *Sobieski*, Brother to the Duke of *Rohan*, and several *French* Gentlemen, who were all urgent with him for the Departure of the Fleet designed for *Rochelle*; which, as the Duke was then informed, had relieved it self from the Siege. These Gentlemen much insisted upon the Impossibility that the Intelligence could be true, and that it was contrived by their Enemies to abate that Zeal used for their Relief. Which Discourse was held with so much Heat and Vehemence, that the Company who understood not *French*, thought they were angry, and that they offered Rudeness to the Duke; who understanding that his Breakfast was ready, drew near the Door where the Hangings were held up, and in that Passage turning himself to speak to a Colonel, Sir *Thomas Fryar*, he was in an Instant struck over Sir *Thomas's*

Shoulder upon the Breast with a Knife, which pierced him to the very Heart. Upon which amazing Stroke, without any more Words than, *The Villain has killed me*, he pulled out the Knife himself, and the same Moment expired with a Stream of Blood upon the Floor.

There immediately succeeded a great Hurry and Confusion. His Dutcheſs above was thrown into Fits, the Company into a Consternation, and the Town into a Tumult. No Man had seen the Blow, or the Person who gave it; so that the *French* were in most imminent Danger, for every Man was ready to conclude them guilty, from their late warm Discourses. In the Crowd near the Door a Hat was found upon the Ground, having sewed in the Inside a Paper with a few Lines of the Declaration of the House of Commons against the Duke, and one or two short Ejaculations towards a Prayer. All readily concluded that the Hat belonged to the Murderer, but could not imagine who was the Person; till at length a Man was seen walking very composedly before the Door without a Hat. Upon which one crying out, *Here is the Man that killed the Duke*; And others demanding which is he? He calmly answered, *I am He*: And when some of the most furious were running violently upon him to kill him, and others of equal Concern, but more Discretion, defended him, he with open Arms invited their Swords, desiring rather to fall by the Precipitation of their Rage, than be reserved to the Terrors of a deliberate Execution. But in this he was not gratified, being tryed and condemned by the Court of King's-Bench, and afterwards executed, as related above.

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Doctor Manwaring.

Proceedings against ROGER MANWARING, Doctor of Divinity, for High Crimes and Misdemeanours. Anno 1628. 4 CAR. I.

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The Articles preferred against him.

THE Articles of Impeachment preferred against Doctor *Manwaring* by the Commons, were of the following tenor, (*viz.*)

Whereas by the Laws of this Kingdom the Subject might not be compell'd to

pay any Tax, not imposed by common Consent in Parliament; And certain of his Majesty's Subjects relying upon the said Laws, had refused to lend such Sums as were required of them without Authority of Parliament: The said *Roger Manwaring*

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ing, in Contempt of the Laws of this Realm, had lately preached two Sermons in his Majesty's Presence on the 4th and 29th Days of July, which he had since published in Print in a Book entitled, *Religion and Allegiance*; with a wicked and malicious Intention to misguide the King's Conscience, touching the Observation of the Laws and Customs of this Kingdom, and of the Rights and Liberties of the Subjects; To incense his Royal Displeasure against his good Subjects, so refusing to scandalize, subvert and impeach the good Laws and Government of this Realm, and the Authority of the high Court of Parliament; To alienate his Royal Heart from his People, and to cause Jealousies, Sedition and Division in the Kingdom. He the said *Roger Manwaring* doth in the said Sermons and Book persuade the King's most excellent Majesty;

First, That his Majesty is not bound to keep and observe the good Laws and Customs of this Realm, concerning the Rights and Liberties of the Subjects aforementioned: And that his Royal Will and Command in imposing Loans, Taxes and other Aids upon his People, without common Consent in Parliament, doth so far bind the Consciences of the Subjects of this Kingdom, that they cannot refuse the same without peril of eternal Damnation.

Secondly, That those of his Majesty's loving Subjects, which refused the Loan aforementioned, in such manner as is before cited, did therein offend against the Law of God, against his Majesty's Supreme Authority; and by so doing, became guilty of Impiety, Disloyalty, Rebellion, and Disobedience; and liable to many other Taxes and Censures, which he in the several Parts of his Book doth most falsely and maliciously lay upon them.

Thirdly, That Authority of Parliament is not necessary for the raising of Aids and Subsidies; That the slow Proceedings of such Assemblies are not fit for the Supply of the urgent Necessities of the State, but rather apt to produce sundry Impediments to the just Designs of Princes, and to give them occasion of Displeasure and Discontent.

All which the Commons are ready to prove, not only by the general Scope of the same Sermons and Book, but likewise by the several Clauses, Assertions and Sentences therein contained. And they

pray, that the said *Roger Manwaring* may be put to answer to all and every the Premises; And that such Proceeding, Examination, Tryal and Judgment, and exemplary Justice may be thereupon had and executed, as is agreeable to Law and Justice.

The Doctor, instead of putting in his Answer to the Charge, made the following Confession and Submission before the House of Peers, ' May it please this Honourable House; I do here in all sorrow of Heart and true Repentance, acknowledge the many Errors and Indiscretions which I have committed, in preaching and publishing those two Sermons of mine, which I called *Religion and Allegiance*; And my great Fault in falling upon this Theme again, and handling the same rashly and unadvisedly in my own Parish Church of *St Giles's in the Fields*, the 4th of May last past. I do fully acknowledge those three Sermons to have been full of many dangerous Passages, Inferences, and scandalous Aspersions in most part of the same: And I do humbly acknowledge the Justice of this honourable House in that Judgment and Sentence passed upon me for my great Offence: And I do from the bottom of my Heart crave Pardon of God, the King, and this honourable House, and the Church, and this Commonwealth in general, and those worthy Persons adjudged to be reflected upon by me in particular, for these great Errors and Offences.

ROGER MANWARING.

The Judgment of the House of Peers.

1. That *Roger Manwaring*, Doctor of Divinity, shall be imprisoned during the Pleasure of the House.

2. That he be fined one Thousand Pounds to the King.

3. That he shall make such Submission and Acknowledgment of his Offences, as shall be set down by a Committee in writing, both at the Bar and in the House of Commons.

4. That he shall be suspended for the term of three Years from the Exercise of the Ministry; and in the mean Time a sufficient preaching Minister shall be provided out of his Livings to serve the Cure: This Suspension and Provision to be done by the Ecclesiastical Jurisdiction.

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5. That

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The Doctor's Confession and Submission prescribed by the Peers.

The Judgment of the Lords mentioned in his Confession.

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5. That he shall be hereafter disabled to have any Ecclesiastical Dignity, or Secular Office.

6. That he shall be for ever disabled to preach in the Court hereafter.

7. That his said Book is worthy to be burnt; And that for the better effecting of this, his Majesty may be moved to grant a Proclamation to call in the said Books, that they may be all burnt accordingly

in London, and both the Universities; and for the inhibiting the printing thereof upon a great Penalty.

The Doctor was soon after pardoned, presented to the Rectory of *Stanford-Rivers* in *Essex*, and a Dispensation granted him to hold it with *St. Giles's in the Fields*. And in the Year 1635, the Doctor was preferred to the Bishoprick of *St. Davids*.

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He is soon after preferred.

Proceedings against RICHARD CHAMBERS Merchant of London, for Words reflecting on the Administration. Anno. 1628-9, 4 and 5 of CAR. I.

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The Words charged upon him.

RICHARD Chambers, and several other London Merchants, were charged before the Privy Council with forcibly landing and endeavouring to carry away their Goods and Merchandizes from the Custom-house Key without Payment of the Duties; and that they had caused great and unlawful Assemblies of the People to be gathered together, to the Breach of the King's Peace. Whereupon they were brought before the Council, and Chambers among other things, said, *That such great Customs and Impositions were required from the Merchants in England, as were in no other Place. And that they were more screwed up than under the Turk.* For which Words Chambers was committed to the Prison of the Marshalsea, by a Warrant from the Privy-Council.

Chambers thereupon procured a Writ of Habeas Corpus returnable on the 16th of October. And the Marshal returned thereupon, that Chambers was committed to that Prison on the 28th of September by the Command of the Lords of the Council, for insolent Behaviour and Words spoken at the Council Table; And that the said Warrant was subscribed by the Lord Keeper and twelve more of the Privy Council; but the particular Words spoken by Chambers, were not expressed in the Return. And because it was not mentioned what the Words were, so as the Court might adjudge of them, the Return was held insufficient, and the Warden of the Prison advised to amend his Return. And he was, by Rule of the Court, appointed to bring his Prisoner by such a Day, without a new

Habeas Corpus. And the Prisoner was advised by the Court, that in the mean time he should submit to the Lords, and petition them for his Enlargement. The Warden of the Prison bringing in his Prisoner again into Court October 23, Mr Jermyn for the Prisoner moved; That forasmuch as it appeared by the Return, that he was not committed for Treason or Felony; nor doth it appear what the Words were, whereto he might give Answer, he therefore prayed he might be dismissed or bailed. But the King's Attorney moved, that he might have Day untill the 25th of October, to consider of the Return, and be informed of the Words; And that in the Interim the Prisoner might attend the Council-Table, and Petition. But the Prisoner affirmed that he oftentimes had assayed by Petition, and could not prevail, although he had not done it since the beginning of October; and he prayed the Justice of the Law, and the Inheritance of a Subject. Whereupon at his Importunity, the Court commanded him to be bailed. And he was bound in a Recognizance of four hundred Pound, and four good Merchants his Sureties, were bound in Recognizances of one hundred Pounds a piece, that he should appear here in *Craftino Animarum*, and in the Interim, should be of the good Behaviour; And advertized him they might, for contemptuous Words, cause an Indictment or Information in this Court to be drawn against him if they would.

The Lords of the Council were much dissatisfied with the Bayling of Chambers: Whereupon

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Whereupon the Judges were sent for to the Lord Keeper at *Durham House*; where were present, besides the Lord Keeper, the Lord Treasurer, Lord-Privy Seal, and the Chancellor of the Dutey. The Lord Keeper then declared to them, that the said Enlargement of *Chambers*, was, without due Regard had to the Privy Council, in not first acquainting them therewith. To this the Judges answered, That to keep a fair Correspondency with their Lordships, they had, by the Lord Chief Justice, acquainted the Lord Keeper in private therewith, before they bailed the Party: And that what they had done as to the bailing of the Prisoner, was according to Law and Justice, and the Conscience of the Judges. To this it was replied, That it was necessary for the preservation of the State, that the Power and Dignity of the Council Table should be preserved, and that it could not be done without Correspondency from the Courts of Justice.

The said *Richard Chambers* afterwards bringing a Writ of Replevin, to regain the Possession of his Goods which the Custom-House Officers had seized for Non-Payment of the Subsidy of Tonnage and Poundage, the Barons of the Exchequer ordered an Injunction under the Seal of that Court, directed to the Sheriffs of *London*, commanding them thereby not to execute the said Writ, or any the like Writs of Replevin, that should afterwards be sued forth by any Person or Persons, for the Delivery of any Goods in the like nature detained: And did declare publickly in Court, that the said Goods by Law were not repleviable. And the Sheriffs of *London* did accordingly forbear to execute the said Writ of Replevin. Master *Chambers* finding this Obstruction, offered to give great Security to the Court, for the payment of such Duties as should be made apparent, to be payable to his Majesty in such manner as the said Barons should direct. The Court afterwards debating this Matter, would not give way thereunto, unless the said *Chambers* would deposite all such Sums of Money as the said Officers respectively demanded of him for Duties to his Majesty; which he refused to do: Whereupon the Court ordered the Officers of the Customs to detain double the Value of the Sums by them demanded for Duties to his Majesty, and to restore the Residue.

Sir *Robert Heath* the Attorney-General afterwards preferred an Information in the

Court of Star-Chamber against the said *Richard Chambers*, setting forth the gracious Government of the King, and the great Privileges which the Merchants have in their Trading, by paying moderate Duties for the Goods and Merchandizes exported and imported; And setting forth, that the raising and publishing of undutiful and false Speeches, which may tend to the Dishonour of the King or the State, or to the Discouragement or Discontentment of the Subject; or to set Discord or Variance between his Majesty and his good People, are Offences of dangerous Consequence, and, by the Law, prohibited and condemned, under severe Penalties and Punishments.

That nevertheless, the said *Richard Chambers*, on the 28th Day of *September* last, being amongst some other Merchants, called to the Council-Board at *Hampton-Court*, about some Things which were complained of in reference to the Customs, did, then and there, in an insolent Manner, in the presence or hearing of the Lords and others of his Majesty's Privy-Council, utter these undutiful, seditious and false Words; "That the Merchants are in no Part of the World so screwed and wrung as in England; That in Turkey they have more Encouragement." By which Words, he, the said *Richard Chambers*, as the Information setteth forth, did endeavour to aleinate the good Affection of his Majesty's Subjects from his Majesty, and to bring a Slander upon his just Government; And therefore the King's Attorney prayed Process against him.

To this Mr *Chambers* made Answer, That having a Case of Silk *Grograms*, brought from *Bristol* by a Carrier to *London*, of the Value of four hundred Pounds, the same were by some inferior Officers attending on the Custom-House, seized without this Defendant's Consent, notwithstanding he offered to give Security to pay such Customs as should be due by Law; And that he hath been otherwise grieved and damnified by the injurious Dealing of the under Officers of the Custom-House; and mentioned the Particulars wherein: And that being called before the Lords of the Council, he confesseth, that out of the great Sense which he had of the Injuries done him by the said inferior Officers, he did utter these Words, "That the Merchants in England were more wrung and screwed than in foreign Parts." Which Words

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An Information preferred against *Chambers* in the Star-Chamber.

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were only spoken in the Presence of the Privy-Council, and not spoken abroad to stir up any Discord among the People; And not spoken with any dis-loyal Thought at that time of his Majesty's Government, but only intending by these Words to introduce his just Complaint against the Wrongs and Injuries he had sustained by the inferior Officers: And that as soon as he had heard a hard Construction was given of his Words, he endeavoured, by Petition to the Lords of the Council, humbly to explain his Meaning, that he had not the least evil Thought as to his Majesty's Government; Yet was not permitted to be heard, but presently sent away Prisoner to the Marshalsea: And when he was there a Prisoner, he did again endeavour, by Petition, to give Satisfaction to the Lords of the Council. But they would not be pleased to accept of his faithful Explanation, which he now makes unto this honourable Court upon his Oath; And doth profess from the bottom of his Heart, that his Speeches only aimed at the Abuses of the inferior Officers, who in many things dealt most cruelly with him and other Merchants.

Then were two of the Clerks of the Privy-Council examined, as Witnesses to prove the Words, who testify the Words as laid in the Information. And on the 6th of May, 1629, the Cause came to be heard in the Star-Chamber, and the Court were of Opinion, that the Words spoken, were a comparing of his Majesty's Government with the Government of the *Turks*; Intending thereby to make the People believe that his Majesty's happy Government may be termed *Turkish* Tyranny; and therefore the Court fined the said Mr *Chambers* in the Sum of two thousand Pounds to his Majesty's Use; and to stand committed to the Prison of the Fleet; and to make Submission for his great Offence, both at the Council-Board, in the Court of Star-Chamber, and at the *Royal-Exchange*.

There sat twenty two in the Star-Chamber at the Hearing, some of which voted for a Fine of three thousand Pounds, others for a less, and some for five hundred Pounds, and for the Submission. The two Chief Justices were for the five hundred Pound Fine, and that Mr *Chambers* should desire the King's Favour.

The Form prescribed for his Submission was this;

'I *Richard Chambers* of *London*, Merchant, do humbly acknowledge, that

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'whereas upon an Information exhibited against me by the King's Attorney-General, I was, in *Easter Term* last, sentenced by the honourable Court of Star-Chamber; for, that in *September* last, 1628, being convened before the Lords and others of his Majesty's most honourable Privy Council-Board, upon some Speeches then used concerning the Merchants of this Kingdom, and his Majesty's well and gracious Usage of them, did, then and there, in insolent, contemptuous and seditious Manner, falsely and maliciously say and affirm, that they, meaning the Merchants, are in no Parts of the World so screwed and wrung as in *England*; and that in *Turkey* they have more Encouragement: And whereas, by the Sentence of that honourable Court, I was adjudged, amongst other Punishments justly imposed upon me, to make my humble Acknowledgment and Submission for this great Offence at this honourable Board, before I should be delivered out of the Prison of the *Fleet*, whereto I was then committed, as by the said Decree and Sentence of that Court, among other things, it doth and may appear: Now I the said *Richard Chambers*, in Obedience to the Sentence of this honourable Court, do humbly confess and acknowledge the speaking of these Words aforesaid, for the which I was so charged, and am heartily sorry for the same: And do humbly beseech your Lordships all to be honourable Intercessors for me to his Majesty, that he would be graciously pleased to pardon this great Error and Fault so committed by me.'

This Submission was sent by the Attorney-General to the Warden of the *Fleet*, which, when Mr *Chambers* had read, he subscribed thus:

'All the above Contents and Submission, I *Richard Chambers* do utterly abhor and detest, as most unjust and false: And never till Death will acknowledge any part thereof.

Richard Chambers.

Also he underwrit these Texts of Scripture to the said Submission, viz.

That maketh a Man an Offender for a Word, and layeth Snare for him that reproveth in the Gate, and turn aside the just for a thing of nought.

Blame not before thou hast examined the Truth: Understand first and then rebuke: Answer not before thou hast heard the Cause, neither

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neither interrupt Men in the midst of their Talk.

Doth our Law judge any Man before it bear him and know what he doth.

King Agrippa said unto Paul, thou art permitted to speak for thyself.

Thou shalt not rest the Judgment of the Poor in his Cause, thou shalt not respect Persons, neither take a Gift: for a Gift doth blind the Eyes of the wise, and pervert the Eyes of the righteous.

Wo to them that devise Iniquity, because it is in the Power of their Hand, and they covet Fields and take them by Violence, and Houses and take them away: so they oppress a Man and his House, even a Man and his Heritage.

Thus saith the Lord God, let it suffice you, O Prince of Israel: Remove Violence and Spoil, and execute Judgment and Justice, take away your Exactions from my People, saith the Lord God.

If thou seest the Oppression of the Poor, and violent perverting of Judgment and Justice in a Province, marvel not at the Matter: for he that is higher than the highest regardeth, and there be higher than they.

Per me, Richard Chambers.

In the mean time the House of Commons being informed that an Information was preferred in the Star Chamber against *Richard Chambers*, and others, concerning some Matters that fell out about their refusal to pay Tonnage and Poundage since the last Session of Parliament, because the same was not granted by Act of Parliament, they referred the same to a Committee to examine the Proceedings, and whether they ought not to have Privilege of Parliament, in regard they had then a Petition depending in Parliament, to protect them against the said Proceedings; and *Sir William Aston*, Sheriff of London, being examined before the Committee concerning some Matters about the Customers, and not giving that clear Answer which he ought, and as the House conceived he might have done, was therefore committed to the Tower of London. And a Question was made in the House at that time, whether the House had at any time before committed a Sheriff of London to Prison. To which *Mr Selden* made answer, That he could not call to mind a Precedent of sending on Sheriff of London to Prison, but he well remembered a Precedent of sending both the Sheriffs

of London to the Tower, and instanced the Case.

The House afterwards debating concerning the Restitution of the Goods taken from the Merchants by the Custom-House Officers; and concerning the Commitment of the said Officers, his Majesty sent them the following Message by *Mr Secretary Cook*, *Viz.*

That it concerns his Majesty in a high Degree of Justice and Honour that Truth be not concealed; which is, that what the Customers did was by his own direct Order and Command, at a Council-board, himself being present: And tho' his Majesty takes it well, that the House have severed his Interest from the Interest of the Customers, yet this will not clear his Majesty's Honour, if the said Customers should suffer for his Sake, and this Message was grounded upon this ensuing Order, made the Day preceeding, by the King in full Council.

At Whitehall the 22d of February 1628.

This Day his Majesty in full Council, taking Knowledge of the Debate in the House of Commons the Day before, concerning the Officers of his Customs, and of the respect used by the Committee to sever the private Interest of the said Officers from that of his Majesty, holding it to concern him highly in Justice and Honour, to let the Truth in such a Point touching his Servants to be either concealed or mistaken, did there declare, That what was formerly done by his Farmers and Officers of the Customs, was done by his own Direction and Commandment, and by Direction and Commandment of his Privy Council, himself for the most part being present in Council: And if he had been at any time from the Council-board, yet he was acquainted with their doings, and gave full Direction in it, and therefore could not in this sever the Act of his Officers from his own Act, neither could his Officers suffer for it without High dishonour to his Majesty. This being particularly voted by the whole Council, was the general Assent of them all, and accordingly *Mr Secretary Cook*, had order to deliver the abovesaid Message the next Day from his Majesty to the House of Commons.

The King's Commission to the Lord Treasurer, and Barons of the Exchequer, and

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and to the Customers of the Ports, was to this Effect.

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WHEREAS the Lords of the Council, taking into Consideration our Revenue, and finding that Tonnage and Poundage is a principal Revenue of our Crown, and has been continued for these many Years; have therefore ordered all these Duties of Subsidy, Custom and Impost as they were in the 21st of King James, and as they shall be appointed by Us under our Seal to be levied: Know ye, that we, by the Advice of our Lords, declare our Will that all those Duties be levied and collected as they were in the time of our Father, and in such a manner as we shall appoint; and if any Person refuse to pay, then our Will is, That the Lord Treasurer shall commit to Prison such so refusing till they conform themselves. And we give full Power to all our Officers from time to time, to give Assistance to the Farmers of the same, as fully as when they were collected by Authority of Parliament.

The Parliament being dissolved on the second of March following, the Sheriff of London, and those whom the Commons had committed were released of Course.

Afterwards in Trinity Term 4 Car. it is found in the great Roll of this Year, that there was demanded there of Richard Chambers of London, Merchant, 2000 l. for a certain Fine imposed on him hither sent by Virtue of a Writ of our said Lord the King, under the Foot of the Great Seal of England, directed to the Treasurer and Barons of the Exchequer, for making Execution thereof to the use of the said Lord the King as is there contained: And now that is to say, in the Utas of the Blessed Trinity, this Term comes the said Richard Chambers, in his own proper Person, and demands Oyer of the demand aforesaid as it is read unto him: And he demands Oyer also of the Writ aforesaid, under the Foot of the Great Seal of England hither sent, and it is read unto him in these Words.

Charles by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. to his Treasurer and Barons of his Exchequer, Health: The extract of certain Fines taxed and adjudged by Us and our Council, in our said Council in our

Court of Star-Chamber in the Term of St Michael, the Term of St Hillary, and the Term of Easter last past, upon Thomas Barnes, of the Parish of St Clement's Danes, in the County of Middlesex, Carpenter, and others severally, and divididly, as they be there severally assessed, We send unto you included in these Presents, commanding that looking into them you do that which by Law you ought to do against them for the levying of those Fines. Witness our Self at Westminster 21st of May, in the Year of our Reign the V.

And the Tenor of the Schedule to the said Writ annexed, as to the said Richard Chambers followeth, Viz.

In the Term of Easter the fifth Year of King Charles, of Richard Chambers, of London, Merchant, 2000 l. which being read, heard, and by him understood, he complains that he is grievously vexed and inquieted by colour of the Premises; and that not justly, for that protesting that the said great Roll and the matter therein contained is not in Law sufficient, to which he hath no need, nor is bound by Law to answer; yet for Plea the said Richard Chambers saith, That he of the demand aforesaid, in the great Roll aforesaid mentioned, and every Parcel thereof ought to be discharged against the said Lord the King, for that he said that he from the time of the Taxation of the aforesaid Fine, and long before was a Freeman and a Merchant of this Kingdom, that is to say, in the Parish of the Blessed Mary of the Arches in the Ward of Cheap, London: And that by a certain Act in the Parliament of the Lord Henry, late King of England the third, held in the ninth Year of his Reign, it was provided by Authority of the said Parliament; that a Freeman shall not be amerced for a little Offence, but according to the manner of the said Offence; and for a great Offence according to the greatness of the Offence, saving to him his Contenment or Freehold; and a Merchant in the same manner, saving unto him his Merchandize; and a Villain of any other than the King after the same manner to be amerced, saving his Wainage; and none of the said Amercements to be imposed but by the Oaths of good and lawful Men of the Neighbourhood: And by a certain other Act in the Parliament of the Lord Edward, late

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late King of *England* the first, held in the third Year of his Reign, it was, and is provided, that no City, Borough, or Town, nor any Man shall be amerced without reasonable Cause, and according to his Trespas; that is to say, a Freeman, saving to him his Contenement; a Merchant, saving to him his Merchandize; and a Villain, saving to him his Wainage; and this by their Peers. And by the same Act in the Parliament of the said Lord *Henry*, late King of *England* the third, held in the ninth Year of his Reign aforesaid, it was, and is, provided by Authority of the said Parliament, that no Freeman should be taken or imprisoned, or disseized of his Freehold or Liberties, or free Customs, or Outlawed, or Banished, or any ways destroyed. And that the Lord the King should not go upon him, nor deal with him but by a lawful Judgment of his Peers, or by the Law of the Land. And by a certain Act in Parliament of the Lord *Edward*, late King of *England* the third, held in the fifth Year of his Reign, it was, and is, provided by the Authority of the said Parliament, that no Man henceforth should be attacked by reason of any Accusation, nor prejudged of Life or Member; nor that his Lands, Tenements, Goods, or Chattels, should be seized into the Hands of the Lord the King, against the Form of the Great Charter, and the Law of the Land. And by a certain Act in the Parliament of the Lord *Henry*, late King of *England* the seventh, held in the third Year of his Reign, reciting that by unlawful maintenances given of Liveries, Signs, and Tokens, and Retainers by Indentures, Promises, Oaths, Writings, and other Imbraceries of the Subjects of the said Lord the King, false Demeanours of Sheriffs, in making of Pannels, and other false Returns, by taking of Money by Jurers, by great Riots and unlawful Assemblies, the Policy and good Government of this Kingdom was almost subdued; and by not punishing of the said Inconveniences, and by occasion of the Premises, little or nothing was found by Inquisition; by reason thereof the Laws of the Land had little effect in their Execution, to the increase of Murthers, Robberies, Perjuries, and Insecurities of all Men living, to the loss of their

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Lands and Goods, to the great Displeasure of Almighty God: It was ordained for Reformation of the Premises, by Authority of the said Parliament, that the Chancellor and Treasurer of *England*, for the time being, and the Keeper of the Privy Seal, of the Lord the King, or two of them, calling to them one Bishop, one Lord Temporal of the most Honourable Council of of the Lord the King, and two Chief Justices of the *King's Bench* and *Common Pleas*, for the time being, or two other Justices in their absence, by Bill or Information exhibited to the Chancellor for the King or any other, against any Person for any ill Behaviours aforesaid, have Authority of calling before them by Writ of Privy Seal such Malefactors, and of examining them and others by their Discretion, and of punishing such as they find defective therein according to their Demerits, according to the Form and Effect of the Statutes thereof made, in the same Manner and Form as they might and ought to be punished, if they were thereof convinced according to the due Course of Law. And by a certain other Act in the Parliament of the Lord *Henry*, late King of *England* the eighth, held in the 21st Year of his Reign, reciting the Offences in the aforesaid Statute of the said late King *Henry* the seventh before mentioned, by Authority of the said Parliament, it was, and is ordained and enacted, that henceforth the Chancellor, Treasurer of *England*, and the President of the most Honourable Privy Council of the King, attending his most Honourable Person for the time being, and the Lord Keeper of the Privy Seal of the Lord the King, or two of them, calling to them one Bishop, and one Temporal Lord of the most Honourable Council of the Lord the King, and two Chief Justices of the *King's Bench* and *Common Pleas* for the time being, or two Justices in their absence, by any Bill or Information then after to be exhibited to the Chancellor of *England*, the Treasurer, the President of the said most Honourable Council of the Lord the King, or the Keeper of the Privy Seal of the Lord the King for the time being, for any Misdemeanour in the aforesaid Statute of King *Henry* the seventh aforesaid before recited, from henceforth have full Power and Authority of calling before

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fore them by Writ or by Privy Seal such Malefactors, and of examining of them and others by their Direction, and of punishing those that are found defective, according to their Demerits. According to the Form and Effect of the said Statute of the aforesaid Lord King Henry the seventh, and of all other Statutes thereupon made not revoked and expired, in the same manner and form as they might and ought to be punished, if they were convicted according to the due order of the Laws of the said Lord the King. And by the aforesaid Writ under the Foot of the Great Seal, it manifestly appears that the said Fine was imposed by the Lord the King and his Council, and not by the legal Peers of the said Richard Chambers, nor by the Law of the Land, nor according to the manner of the pretended Offence of the said Richard Chambers, nor saving unto him his Merchandize, nor for any Offence mentioned in the said Statute: All and singular the which, the said Richard Chambers is ready to verify to the Court, &c. and demands Judgment; and that he be discharged of the said 2000 l. against the said Lord the now King; and that as to the Premises he may be dismissed from the Court.

With this Plea he annexed a Petition to the Lord Chief Baron, and also to every one of the Barons, humbly desiring the filing of the Plea, with other Reasons in the manner of a Motion at the Bar, because, he said, Council would not move, plead, nor set Hand to it, as farther appeareth.

The Copy of the Order upon Mr Attorney's Motion in the Exchequer 17 July 1629; after the Plea put in, and Order to file it. Per the Lord Chief Baron.

Touching the Plea put into this Court by Richard Chambers, to discharge himself of a Fine of 2000 l. set on him in the Star-Chamber: Forasmuch as Sir Robert Heath, Knight, his Majesty's Attorney General, informed this Court that the said Chambers, in his said Plea recites divers Statutes, and *Magna Charta*, and what Offences are punishable in the Star-Chamber, and how the Proceedings ought to be; and upon the whole Matter concludes, That the said Fine was imposed by the King and his Council, and not by a legal Judgment of his Peers, nor by the Law of the Land, nor according to the manner

of his Offence; nor saving his Merchandize, nor for any Offence mentioned in the said Statutes: Which Plea Mr Attorney, conceiving to be very frivolous and insufficient, and derogatory to the Honour and Jurisdiction of the Court of Star-Chamber, humbly prayeth, might not be allowed of nor filed: It is therefore this Day ordered, that the said Plea shall be read on Saturday next, and then upon hearing the King's Council, and the Council of the said Richard Chambers, this Court will declare their farther Order therein; and in the mean time the said Plea is not to be filed nor delivered out.

In Michaelmas Term following, Mr Chambers was brought by a *Habeas Corpus* out of the Fleet, and the Warden did return;

That he was committed to the Fleet by virtue of a Decree in the Star-Chamber, by reason of certain Words he used at the Council-Table, viz. *That the Merchants of England were screwed up here in England, more than in Turkey.* And for these and other Words of Defamation of the Government, he was censured to be committed to the Fleet, and to be there imprisoned until he had made his Submission at the Council-Table and to pay a Fine of two thousand Pound: And now at the Bar he prayeth to be delivered, because this Sentence is not warranted by any Law or Statute: For the Statute of the third Year of Henry VII, which is the Foundation of the Court of Star-Chamber, doth not give them any Authority to punish for Words only. But all the Court informed him, That the Court of Star-Chamber was not erected by the Statute of the third Year of Henry VII, but was a Court many Years before, and one of the most high and honourable Courts of Justice: And to deliver one who was committed by the Decree of one of the Courts of Justice, was not the Usage of this Court; and therefore he was remanded, and remained in Prison six Years and upwards. In the Year 1645, he presented the following Petition to the Parliament, viz.

To the Parliament of the Common-wealth of England, Scotland, and Ireland.

The brief Remonstrance and humble Petition of Richard Chambers Merchant, late Alderman and Sberiff of the City of London.
Shewing,

1628-9.
4. 5 Car. I.

1628-9.
4, 5 Car. I.

Shewing,

That in the Parliament held in the Years 1627 and 1628, it was voted and declared by the honourable House of Commons, That whosoever shall counsel or advise the taking or levying of the Subsidy of Tonnage and Poundage, not granted by Parliament, or shall be any Actor or Instrument therein, shall be reputed an Innovator in the Government, and a capital Enemy to the Kingdom and Common-wealth; and if any Merchant or Person whatsoever shall voluntarily yield or pay the said Subsidy of Tonnage and Poundage, not being granted by Parliament, they shall likewise be reputed Betrayers of the Liberties of England, and Enemies to the same, as may appear by the said Order upon record.

In Submission and Obedience whereunto, the Petitioner first opposed and withstood the Payment of Tonnage and Poundage, (until they were settled by Parliament) and all other illegal Taxes; for which Submission and Obedience in the Year 1628 and 1629, the Petitioner had 7060 Pounds of Goods, wrongfully taken and detained from him by the late King's Officers and Farmers of the Custom-House of London for pretended Duties, and a heavy Sentence and Fine in the Star-Chamber, which was imposed upon him in the Year 1629; besides which Losses, the Petitioner further suffered in his Person by six whole Years Imprisonment in the Fleet, for not submitting to that Sentence and Fine: And in the Year 1639, nine Months Imprisonment in Newgate for withstanding Ship-Money; by which Losses and Imprisonment the Petitioner was put by the Exercise of his Calling, and was wounded in his Credit and Reputation.

Which Sufferings the Honourable House of Commons (upon the Petitioner's Complaint in the Year 1640) taking into their grave Considerations, were pleased to refer the Examination thereof to a Committee of fifty Members, wherein were included the Committee for the Navy and Customs; who being well satisfied of the Truth thereof, by Oath and other good sufficient Proofs upon Record, drew up their Report, That the Petitioner ought then to have 13680 Pounds in part of Reparation, leaving the rest of those Reparations to the fur-

ther Judgment of the Honourable House, as by the annexed Copy of that Report may further appear.

In pursuit of which report, the Parliament then levied and received from the old Farmers and Officers of the Customs, 50000 Pounds for Wrongs and Abuses done to the Petitioner (chiefly) and other Merchants, intending first to give to the Petitioner satisfaction out of the same, because he was the first Man that opposed the pretended Duties, and the greatest Sufferer.

Whereupon in the Year 1642, the Petitioner was chosen Alderman, and in the Year 1644, Sheriff of the City of London; which Places the Petitioner earnestly endeavoured to shun; but such were the earnest Importunities and persuasive Encouragements of divers Members of the honourable House, (who then desired to have the Petitioner in Place of Trust for his former Service to the Commonwealth) that the Petitioner was constrained to accept not only of the Place of Alderman, but farther underwent the Office and Charge of Sheriff of London, which stood the Petitioner in 4000 l. Pounds that Year.

But notwithstanding the aforesaid Premises and Intents of the Parliament to give the Petitioner Satisfaction, such were the great compulsive Exigents and urgent Necessities of those Times, caused by the publick Distractions, that the said Motives were concentered to the publick Use; therefore the Parliament desired the Petitioner to have a little Patience, promising him speedy Satisfaction, as well for the Forbearance, as for the principal Debt: But the Distractions continuing, the Petitioner had neither Interest, nor any Part of his Principal. The Parliament in the Year 1648, in Part of Satisfaction, settled the Petitioner in the Office of Surveyor and Check in the Custom-House of London, then worth at least 6000 l. per Annum; but the Petitioner having enjoyed that Place only eight Months, was causelessly outed by sinister Information of Intruders, who have enjoyed that Office, and divided the Profit thereof between them ever since that Intrusion.

Moreover the late King by Privy-Seal, owes to the Petitioner's Wife, (who is the Relict of Mr Thomas Ferrer) for Linnen Cloth 5000 l. and for Money

T t t

1648-9.
4 Car. I.

Money lent 1200*l.* for which she was assigned Satisfaction out of the Customs of Tobacco; besides she was farther assigned our of Sir Thomas Dawe's Office 100 Marks *per Annum*; all which Debts likewise lie wholly unsatisfied, to the Petitioner's great Prejudice.

Besides the aforesaid Losses, Hindrances, Expences, Sufferings and Forbearances of the Profit of the said Office, the Petitioner from time to time hath laid out himself for the common Good, in acting, lending, spending (and serving) when others refused, exposed himself to that eminent Danger at *Bransford*, by leading out a Troop of Horse for the Privileges, Liberties and Rights of the City of *London* and Commonwealth; insomuch that thereby, and for Want of his Satisfaction aforesaid, the Petitioner having consumed his Estate, hath been constrained to sell and mortgage some part of his Lands to pay Creditors, and to maintain his Family, having a Wife and nine Children; and is likely to be undone for obeying the Parliament's Commands; unless by the Justice and Commiseration of this honourable Assembly he be speedily relieved and righted; for that ever since the said reported Sum, the Petitioner from time to time hath made his humble Addresses to the supreme Powers for the time being for Satisfaction thereof, and to be restored to the said Office, but could not prevail.

The Petitioner therefore humbly prays, that he may not perish for acting for the publick Good, according to the Declaration of Parliament; but that now after twenty six Years Suffering, whereof twelve Years in fruitless and wearisome Waitings, this honourable Assembly

would now be pleased to take the unparalleled Sufferings of the Petitioner into their grave Considerations, for some speedy Course for the Petitioner's Satisfaction, to pay his Debts and redeem his Lands, by ordering him the one Moiety of his Debt in ready Money out of the daily Customs of *London*, (from whence his first Losses and Sufferings sprang) and the other Moiety to be discounted upon such Goods as your Petitioner shall make Entries of, by Exportation or Importation in the Custom-House *London*, until his Debt with the Interest be fully satisfied and paid, or any other speedy way as in your grave Wisdoms shall seem meet. And in like manner for his Wife's Debt, which is to pay Debts and Legacies: And that the Petitioner may forthwith be restored to, and settled in the said Offices, and have Reparations from the Intruders.

And the Petitioner with his, shall in all Duty ever pray, &c.

September 6th,

1645.

RICHARD CHAMBERS.

The Petitioner being wearied out with twelve Years Attendance upon one Parliament, in hopes of Reparation for his Imprisonment, Troubles and Losses during the eleven Years former Interval of Parliament, in standing for the Liberty of the Subject, grew infirm; and being not relieved, was reduced to a low Estate and Condition. He died in Summer 1658, being about the Age of Seventy Years.

Proceedings

Proceedings against ROBERT CARR, Earl of Somerset, FRANCIS RUSSEL, Earl of Bedford, JOHN HOLLIS, Earl of Clare, Sir ROBERT COTTON, Kt. JOHN SELDEN, and OLIVER ST JOHN, Esqrs; and others Defendants, for publishing and dispersing a seditious Libel. Anno 1630. 6 CAR. I.

Earl of Somerset, &c.

1630.
6 Car. I.

The Charge
against them

THE Attorney General preferred an Information against the Defendants in the Court of Star-Chamber, charging them with publishing and dispersing a seditious Libel, entitled, *A Proposition for his Majesty's Service to bridle the Impertinency of Parliaments*. In which, among other things, it was proposed, 1. To erect a Fortress in every great Town in the Kingdom. 2. That the Highways should be so contrived, that all Passengers should be obliged to pass through the said Towns. 3. That the Soldiers in the Garrison in such Towns, should not be Natives of the Place. 4. That no Stranger should be suffered to pass through such Towns without a Ticket. 5. That the Names of all Travellers should be brought to the Governor by the Inn-keepers, and that the Subject should be obliged to take an Oath to acknowledge the King as absolute a Sovereign as any Monarch in Christendom, and that by his Proclamations he might make or repeal Laws without consulting his Parliament.

In the second Part of this Libel, the Author proposes the encreasing the Revenues of the Crown by the following Means. 1. By requiring every Subject to pay a tenth Part of his annual Rents and Profits to the Crown. 2. By buying in all the Leases of the Crown Lands. 3. By engrossing all Salt in his Majesty's own Hands. 4. By a Rate on all Weights and Measures. 5. By a Duty on Wool. 6. By a Tax on every Lawyer's Fee. 7. By a Tax on Inns and Victualling Houses. 8. By a Tax on Cattle and Flesh exposed to Sale. 9. By a Tax on the Alienation of Estates. 10. By a Rate on all Offices and Places. 11. By reducing his Majesty's

Household to Board Wages. 12. By a Rate for Licences to eat Eggs on Fast-Days. 13. By taxing the Estates of Papists. Lastly, By making all the Earls of England Grandees, and the Barons Earls. By conferring Titles on the superior Gentry; and by creating the rest of the Gentlemen and substantial Yeomen, Esquires.

1630.
6 Car. I.

To this Information, the Earl of Somerset answered by his Council, That the Discourse or Libel mentioned in the Information, he believed, was either the same that was shewed him in the time of his Attendance near his late Majesty King James, or had many of the same Things in it: And finding no Cause of concealing a Proposition made in a former King's Time, and having no Apprehension that Scandal to his Majesty or the present Government might thereby happen, he casually imparted it to the Earls of Bedford and Clare, who after perusal thereof, delivered their Opinion concerning it, at their next Meeting; "That it was a phantastick Project of some Brain-sick Traveller, who had made Collections of some Princes in Italy, and other foreign States, no ways suitable to the Government of this Kingdom."

The Answer
of the Defendants,

And farther said, That besides that one time, there was never any Conference, nor any Passage by Letter or otherwise betwixt them, concerning it, or with any other Person; and denied that he either contrived the Proposition, or knew of the contriving thereof, or ever imagined that his Majesty would innovate the antient Form of Government, dispose of the Estates of his Subjects without their Consent,

1630.
6 Car. I.

Consent, make or repeal Laws by Proclamation without Consent of Parliament, plant Garrisons in his principal Cities and Towns, or put in execution any part of the said Discourse: And the Reason why he did not present the Discourse to his Majesty, or some of the Lords of the Council, or some Magistrates, was, because he did not conceive the same did in any sort concern the Time of his Majesty's Government, but was contrived in some former Time, as appeareth manifestly by the Particulars therein contained; And that about sixteen or seventeen Years ago, Sir David Fowles shewed him the Project, to whom he replied, "That he was satisfied no Use could be made thereof, and so he re-delivered it, and concluded that the divulging thereof, was, in his Opinion, pardoned by the general Pardon granted upon his now Majesty's Coronation."

The rest of the Defendants denied any their Contrivance thereof, alledging the Author, as they were informed, was living beyond Sea; and that they ought not to be questioned for it, being writ in the Time of King James, and not in reference to his now Majesty's Government; denying that they had the least Thought or Intention to scandalize the Government; For that they rejected the Discourse as soon as they read it, as a foolish and impertinent Issue of some projecting Brain; And they averred their Detestation of such a Project, and that they bore loyal Hearts to his Majesty, and blessed God for the happy and peaceable Government under him.

After the Publication of the Cause in order to a hearing, it appeared by the Depositions of Sir David Fowles, that he received the said Writing from one Mr Yates, in the Time of King James, who brought it from Sir Robert Dudley at Florence, together with a Letter desiring him to deliver it to the Earl of Somerset, that he might communicate it to King James, which was done accordingly; and that in his Hearing the Earl signified a Dislike thereof: And that he received it back from the Earl, (being the Original) and kept it by him till the Lords of the Council sent for it, and that he made no Copy thereof.

It appeared also by Depositions of other Witnesses, that this Discourse nine Years ago was bought by them in Little Britain amongst other Manuscripts.

This Cause coming to a Hearing, a great Presence of Nobility being in Court, the Attorney General opened the Charge. But before much proceeding, his Majesty sent Word to the Lord Keeper Coventry then in Court, that the Queen was then brought to Bed of a Son; and a private Message was also delivered to him from the King; whereupon he declared in Court, that his most sacred Majesty had taken this Matter into his most serious Consideration; and although the same was of so high a nature, as it was necessary to be brought in question, (being contrary to many Laws and Statutes and the common Law itself) yet his Majesty balancing the same in the Scales of Justice and Mercy, (the Author of the Discourse being discovered to live beyond the Seas) found these Defendants rather fitting to be Objects of his Mercy than Justice, they being some of them Noblemen, and such as his Majesty did, and doth well esteem and like of in his Royal Opinion.

The Lord Keeper made known, that the Court by his Majesty's special Command, was to proceed no farther in the hearing of this Cause; but ordered the Project or Book to be burnt, as seditious and scandalous both to his Majesty, and the State and Government of this Kingdom; and ordered the Proceedings to be taken off the File.

Bishop Kennet in his History of England observes hereupon, that tho' this Project was proved to have been a private Essay in a former Reign and in a foreign Country; and tho' the stopping of the Proceedings was a generous Act of Favour upon a proper Season of publick Joy, yet those Persons who had the Art and the ill Nature to turn every thing to the Disgrace and Disadvantage of the Court, insinuated that the King and the Ministry had really formed that Scheme against the Use of future Parliaments; and therefore would not suffer it to be examined to the Bottom.

Proceedings

1630.
6 Car. I.

Proceedings against ALEXANDER LEIGHTON, D. D. *Leighton;*
for a seditious Libel. Anno: 1630. 6 CAR. I:

1630.
6 Car. I.
The Infor-
mation pre-
ferred against

AN Information was preferred against the Defendant *Alexander Leighton*, in the Star-Chamber by the Attorney General, for making and publishing a seditious Libel, entitled, *An Appeal to the Parliament: Or a Plea against Prelacy*; reflecting on the King, Peers and Prelates; wherein, among other Things, are set forth these false and seditious Assertions and Positions following, viz.

I. That we do not read of greater Persecutions and higher Indignity done unto God's People, in any Nation professing the Gospel, than in this our Island, especially since the Death of Queen *Elizabeth*.

II. He terms the Prelates of this Realm, *Men of Blood*, and Enemies to God and the State; and saith that the maintaining and establishing of Bishops within this Realm, is a main and Master-Sin established by Law, and that Ministers should have no Voice in Council deliberative and decisive.

III. He avowed the Prelacy of our Church to be *Antichristian* and *Satanical*, and terms the Bishops *Ravens* and *Mag-pyes* that prey upon the State.

IV. He terms the Canons of our Church, made Anno. 1603, *Non-sense Canons*.

V. He disallowed and contemned the Ceremony of Kneeling in the receiving of the Sacrament, alledging, that the suggestion of false Fears to the King by the Prelacy, and the seeking of their own unlawful Standing, brought forth that received Spawn of the Beast, Kneeling at the receiving of the Sacrament.

VI. He affirms that the Prelates did corrupt the King, fore-stalling his Judgment against God and Goodness; and most audaciously and wickedly calleth his Majesty's Royal Consort, the Daughter of *Heth*.

VII. He most impiously seems to commend him that committed the barbarous and bloody Act of murdering the late Duke of *Buckingham*, and to encourage others to second him in the like wicked

N U M B. IX.

and desperate Attempt to the Destruction of others.

VIII. He layeth a most seditious Scandal upon the King, State, and Kingdom, wickedly affirming, That, *All they that pass by us spoil us, and we spoil all that rely upon us*. And amongst other Particulars, instanceth the black pining Death of the *Rochellers*, to the number of fifteen thousand in four Months: By which Passages and wicked Positions and Assertions, he did, as much as in him lay, scandalize his Majesty's sacred Person, his religious, wise and just Government, the Person of his Royal Consort the Queen, the Persons of the Lords and Peers of this Realm, especially the Reverend Bishops.

IX. That in another Place of the said Book, endeavouring to slander not only his Majesty's sacred Person and Government, but also to detract from his Royal Power, in making Laws and Canons for Government Ecclesiastical; And in Matters concerning the Church, he saith, That the Church hath her Laws from the Scripture, and that no King may make Laws in the House of God, for if they might, then the Scripture might be imperfect.

X. And farther charged, that in another place of the said Book, thinking to save all with an Expression of his sacred Majesty, he hath these Words following; 'What Pity it is, and indelible Dishonour it will be to you the State's Representative, that so ingenuous and tractable a King should be so monstrous-ly abused, to the undoing of himself and his Subjects!'

The Defendant in his Answer confessed the Writing of the Book, but with no such ill Intention as set forth in the Bill; his End therein, as he affirmed, being only to remonstrate certain Grievances in Church and State, under which the People suffered; to the End the Parliament might take them into Consideration, and so give such Redress as might be for the Honour of the King, the Quiet of the

U u u

People,

1630.
6 Car. I.

1630.
6 Car. I.

People, and the Peace of the Church. This Cause coming to Tryal, the Court declared, That it evidently appeared upon Proof, that the Defendant had printed five or six hundred of the said Books, and that, in their Opinion, he had committed a most odious and heinous Offence, deserving the severest Punishment the Court could inflict, for framing and publishing a Book so full of most pestilent, devilish and dangerous Assertions, to the Scandal of the King, Queen, and Peers, especially the Bishops.

The two Lord chief Justices being present, delivered their Opinions, That they would, without any scruple, have proceeded against the Defendant, as for Treason committed by him, if it had come before them; And other Lords expressly affirmed, that it was his Majesty's exceeding great Mercy and Goodness, that he was brought to receive the Censure of this Court, and not questioned at another Tribunal as a Traytor.

The Sentence, by unanimous Consent of their Lordships was, that the Defendant should be Prisoner in the *Fleet* for Life, unless the King should enlarge him: That he should pay a Fine of ten thousand Pounds; Be degraded by Ecclesiastical Authority; Then to stand in the Pillory at *Westminster*, the Court then sitting: To be whipped; To have one Ear cut off, his Nose slit, and be branded in the Face with double S. S. as a Sower of Sedition: After a convenient time, to stand again in the Pillory in *Cheapside*, on a Market Day; To be whipped again, and have his other Ear cut off.

This Sentence being given towards the End of Trinity Term, and the Court not usually sitting after the Term, unless upon emergent Occasions, and it requiring some time in the Ecclesiastical Court, in order to the Degradation of the Defendant, it was *Michaelmas* Term following before any part of the Sentence could be put in execution. On the 4th of *November* he was degraded, and on *Wednesday November 10*, (being a Star-Chamber Day) he was to have undergone the Execution of this Sentence: But the Evening before, he escaped out of the *Fleet*, where he had been kept a close Prisoner, and Information hereof being given to the Lords of the Privy Council, they ordered the following *Hue and Cry* to be printed to retake him.

A Hue and Cry against Dr Leighton, by Order of the Privy Council.

1630.
6 Car. I.

Whereas *Alexander Leighton*, a *Scottish* Man born, who was lately sentenced by the honourable Court of Star-Chamber, to pay a great Fine to his Majesty, and to undergo corporal Punishment, for writing, printing and publishing a very libellous and scandalous Book against the King and Government, hath this 10th Day of *November*, escaped out of the Prison of the *Fleet*, where he was a Prisoner: These are in his Majesty's Name, to require and command all Justices of the Peace, Mayors, Sheriffs, Bayliffs, Customers, Searchers and Officers of the Ports, and all others his Majesty's loving Subjects, to use all Diligence for the apprehending of the said *Alexander Leighton*, and being apprehended, safely to keep him in Custody, until his Majesty shall receive Notice thereof, and shall give farther Direction concerning him. He is a Man of low Stature, fair Complexion, he hath a yellowish Beard, a high Forehead, betwixt forty and fifty Years of Age.

This Hue and Cry followed him to *Bedfordshire*, where he was apprehended, and brought again a Prisoner to the *Fleet*.

On *Friday, November* the 16th, Part of his Sentence was executed upon him in this manner, in the *New Palace-yard* at *Westminster*, in Term time.

I. He was severely whipt before he was put in the Pillory.

II. Being set in the Pillory, he had one of his Ears cut off.

III. One Side of his Nose slit.

IV. Branded on one Cheek with a red hot Iron with the Letters S. S. signifying a Stirrer up of Sedition, and afterwards carried back again Prisoner to the *Fleet*, to be kept in close Custody.

And on that Day se'night, his Sores upon his Back, Ear, Nose and Face, being not cured, he was whipped again at the Pillory in *Cheapside*, and there had the remainder of his Sentence executed upon him, by cutting off the other Ear, slitting the other side of his Nose, and branding the other Cheek.

The severe Punishment of this unfortunate Gentleman many People pitied; he being a Person well known, both for Learning and other Abilities: Only his untemperate Zeal (as his Countrymen then

then gave out) prompted him to that Mistake, for which the necessity of Affairs at that time required this Severity from the Hand of the Magistrate, more than perhaps the Crime would do in a following Juncture.

Levingston and Anderson, who assisted Leighton in his Escape, were afterwards apprehended and condemned by the Court of Star-Chamber, to pay a Fine of 500*l.* apiece, and remain Prisoners in the Fleet during the King's Pleasure.

1630.
6 Car. I.

Proceedings against the Mayor and Commonalty of London, London City.
for a Misdemeanour. Anno. 1632. 8 CAR. I.

MR Attorney General preferred an Information in the King's Bench against the City of London, setting forth, that,

Whereas the said Mayor and Commonalty were Incorporated by that Name, and it was a walled City (and recites the Statute of the 2 E. IV.) That the Mayor for the time, and all who have been Mayors, should be Justices of the Peace within the City, and that the Sheriffs are made among themselves, and Coroners appointed by themselves, and that by Law they ought to suppress Riots, and unlawfull Assemblies: Notwithstanding which, in the seventh of June, 4 Car. in the Day time, one John Lamb, alias Doctor Lamb, was slain in a Tumult there, and none of the Offenders taken, nor any Person indicted for that Felony. And upon this Information, the Mayor and Commonalty appeared and confessed the Offence, & *posuerunt se in gratiam Curiae*, &c. for which they were amerced to 1500 Marks; for it was conceived to be an Offence at the Common Law, to suffer such a Crime to be committed in a walled Town, *tempore diurno*, and none of the Offenders to be known or indicted; vide 3 Ed. III. Coron. 299. 22 E. III. Coron. 238. 8 E. II. Coron 425. *Stamf. fo. 33. Cok. lib. 7. fo. 7. 3 H. VII. 15 Dyer 210.* And Noy Attorney General, shewed a Record Mich. 18 E. III. Rot. 132. an Indictment of a Town in *Devonshire*, for suffering an Assembly to hold Assizes in Mockery of Justice. And 21 H. VI. a Presentment before Fortescue against the Town of *Norwich*; that there was a great Riot in *Norwich*, and one Gladman took upon him to be King, and went with a Crown of Paper in a

Riotous manner to the Priory of *Norwich*, &c. And although it appears not upon the Roll, *quid inde venit*, yet per Rot. Patent. 27 H. VI. Memb. 13. their Liberties for that Cause were seized and regranted.

The Mayor and Citizens were threatened with the Loss of their Charter, it being suspected that the principal occasion of this Outrage, was their Disaffection to the Administration: Or at least to the Duke of Bucks the Prime Minister, whose Creature and Dependant, this Lamb was supposed to be (though the Duke had very little Acquaintance with this unfortunate Man): For the Rabble cryed out, *they would have done as much by the Duke his Master, if they had met with him.*

Mr *Rusworth* relates, That Lamb was reputed a Conjuror; that he was fourscore Years of Age when he was thus inhumanely insulted. The Rabble at first gave him ill Language, calling him Witch and Devil, and the Duke's Conjuror, without any Provocation: Whereupon apprehending Danger, he took Sanctuary in the *Wind-mill Tavern* in the *Old Jury*; but the Vintner fearing his House would be pulled down by the Mob, turned out the imaginary Devil, and the Mob followed him, crying out, a Witch, a Devil, &c. and so pelted, beat and bruised him, that he died of his Wounds that Night: And such was the Rage of the People afterwards, says Mr *Rusworth*, that nothing was more in their Mouths than these Verses,

*Let Charles and George do what they can,
The Duke shall die like Doctor Lamb.*

What makes it Evident the Citizens better Rank approved the Fact is, That ont

1632.
8 Car. I.

The occasion of this Outrage.

1630.
6 Car. I.

1632.
8 Car. I.

The Information against it.

Fined 1500 Marks.

Precedents cited.

1632.
8 Car. I.
None of the
Rioters ap-
prehended.

A Letter
from the
Privy Coun-
cil, to the
City on this
Murder.

one Officer or Magistrate appeared to suppress the Tumult. Nor was any Inquisition taken (by the Coroner) or any of the Murderers discovered, if we may credit the same Writer (Mr *Rusworth*); notwithstanding the Privy Council, sent the following Letter, directed to the Lord Mayor, Aldermen, and Sheriffs, two Days after the Fact was committed, (*Viz.*)

Whereas we are given to understand that the Fury and Outrage of divers dissolute and disorderly Persons assembled together in great Numbers without any Resistance made, or Course taken to suppress them, (by the Magistrates to whom it appertained) one *Lamb* was in a Barbarous manner slain and murdered: Wherewith his Majesty having been likewise made acquainted, as he is very sensible of the Scandal that may hereby be cast upon the Peace and Government of this Realm in general, when the chief City hereof and where his own Person is resident, should by the remissness and neglect of Magistrates, in the Execution of his Laws, suffer a Fact and Misdemeanour of so high a Nature to be committed, and to pass unpunished: So he is very

highly displeased thereat, and hath therefore commanded us in his Name hereby strictly to charge and require your Lordship, &c. that with all Care and Diligence, you do forthwith enquire out the principal Actors and Abettors therein, and to cause them to be apprehended and committed to Prison, and to be proceeded with, and punished in the severest manner, that by the Laws of the Realm is provided against Offenders in so high a Nature.

HIS CHARACTER.

This *Lamb* obtained the Title of Doctor from the common People, being reputed a Fortune-teller or Cunning-man amongst them, and probably pretended to cure Diseases by a Charm: He was resorted to also by Men of Figure, and it is not unlikely that the Duke of *Buckingham* had consulted him on some Occasions. For the Quality of the last Age seems to have had great Faith in such pretended Conjurers, though the Doctor like most of his Brethren, appears to have been an illiterate Man.

Bishop *Williams*.

Proceedings against Doctor JOHN WILLIAMS, Bishop of Lincoln, for disclosing the King's Secrets, Tampering with Witnesses, &c. in the Year 1628, 1637, and 1638. 4. 13 and 14 CAR. I.

1638.
13, 14 C. I.
An Informa-
tion pre-
ferred against
him.

MR Attorney General *Noy*, preferred an Information in the Star-Chamber against the said Bishop *Williams*, in the Year 1634, wherein he charged him with revealing the King's Secrets, upon the Testimony of Sir *John Lamb*, Dean of the Arches, Doctor *Sibthorp*—*Allen*, and—*Burden*—Proctors in the Ecclesiastical Court, who testified that going to wait on the Bishop at his Palace at *Buckden*, and there being some Discourse at Dinner of their Prosecuting the *Puritans*, the Bishop advised them to take off their heavy Hands; informing them that His Majesty intended to use the *Puritans* for the future with more mildness as they were a

considerable Party in the Kingdom, and had a great Influence in Parliament, and without whose Concurrence the King could not comfortably supply his necessities. Adding, That his Majesty had communicated this to him by his own Mouth, with his Resolution hereafter of being more gentle to Men of that Opinion.

To this Information the Bishop by Advice of his Council, did plead and demur, insisting that it did not contain any matter fit for the Cognizance of that Court; relating to Words spoken of matters done in Parliament, and Secrets pretended to be revealed by him who was a Privy Councillor and Peer of Parliament,

1638.
13, 14 C. I.

His Plea
and Demur-
er.

Another In-
formation
against the
Bishop.

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His Answer.

A new Cause.

Another Information against the Bishop.

ment, and were therefore not to be heard but in that high Court. The Demurrer being argued by Counsel on both sides; the Court referred the matter to Mr Justice *Ribbardson*, who over-ruled the Demurrer. Whereupon he put in a Plea to the Information, which was in like manner over-ruled: Then he put in a Special Answer to the Information, alledging that the Prosecution was grounded on a Conspiracy and Combination of the Persons named in the Bill, (*Viz.*) The said *Lamb*, *Sibthorpe*, *Allan* and *Burden*; in hopes of advancing themselves, and in Malice to him, for not suffering them to flee and pill the King's Subjects in *Leicester-shire* in their Ecclesiastical Courts, haling them into their Nets, *ex Officio Mero* without any previous Complaint under an imaginary Colour of Puritanism: Upon this special Answer, Mr Attorney General joined Issue, and admitted the Bishop to prove his Special matters, whereupon he produced his Witnesses. After this the Attorney General proceeding but slowly in the Cause, the Prosecutors employed one *Richard Kilvert*, an eminent Solicitor to manage it, who some way discovering that *John Prigean*, Register of *Lincoln* and *Leicester*, was the Bishop's most material Witness, endeavoured by several ways to discredit *Prigean's* Testimony, and among the rest charged him with getting a Bastard Child; the Bishop looking upon himself to be under a necessity of supporting *Prigean's* Reputation; (for *Prigean* and Doctor *Morrison* were the only Persons of any Figure present at the Bishop's Table when the Discourse of the Puritans happened) did defend him with uncommon Zeal at the Sessions: Where, tho' the Bastard was fixed on *Prigean* at the first Meeting, he was acquitted at the next; And tho' it was fixed upon *Prigean* again at the third Sessions, that Order was afterwards quashed by the King's Bench; and *Prigean* again acquitted of being the Father of the Bastard; notwithstanding Sir *John Mounson*, one of the Justices of Peace of the County appeared very active in the Cause against *Prigean*.

Kilvert the Prosecutor being defeated in this Attempt, and finding the Bishop had been very busy in managing the Evidence in behalf of *Prigean*, dropped the first Information, and preferred another against the Bishop in the Name of the Attorney General, charging him with suborning and tampering with the King's Witnesses: Which Cause coming to a

hearing in the Star Chamber, Mr *Gardner* Recorder of *London* spoke long in his Defence. To which Sir *John Bank*, the then Attorney General, replied: But as the Speeches of the Lords of the Star Chamber will give a sufficient light into the Case; and the Speeches of Mr Recorder and Mr Attorney are of an unusual Length, I choose to omit them, and copy those of the Lord *Cottington*, Sir *John Finch*, and the Earl of *Mandeville*, with whom the rest of the Lords of the Star Chamber agreed in their Censure in the main. *The Lord Cottington's Speech.*
My Lords,

The Business we are now met about to put a period unto, hath taken up so much time already in this Court; that I intend to be very short in what I have to say. If we go to the Well-head, and look at the Original (from whence these foul Streams have issued) it is very small; And the Inconveniencies my Lord hath fallen into, are rather of his own seeking, than any ways properly offered unto him out of the former Passages which touched his Reputation in this Court: However that Maxim stands true; *quisque est fabricator sue fortune*. I am sure in this, that through the whole Passage and Current of it, he hath sought and wrought his own Overthrow: And I am sorry that so great a Person, so wise and so well experienced a Man, and one who hath sat here himself, should now come to be censured for so foul Crimes, so far unbecoming his Function, and those Dignities he hath been graced withal in this Commonwealth. I find (all the way) several undue Practices, many heinous Attempts, and foul Faults in his Agents, countenanced (nay maintained and set on) by his Instigation; for which I hold both him and them worthy the Censure of this Court.

I promised Brevity, therefore I omit the relating of any thing concerning the Truth of the matter which concerned *Alice Smith* and *Elizabeth Hodgson*. If that *Prigean* had been free from the getting of the Bastard, and that he had suffered that way innocently, it had been better for my Lord of *Lincoln* to have advised him to a patient undergoing that Affliction, and have stopped the publick Defamations which
X x x might

Speeches in the Star Chamber on censuring the Bishop.

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' might grow thereupon, with as little
' noise as he might; *quam quæ mini-*
' *mo.* But these Stirs which follow after,
' and the great Expences which my
' Lord Bishop of *Lincoln* was at to pre-
' serve *Prigeon's* Reputation, plainly shew-
' ed there was somewhat more in it than
' ordinary; when rather than that should
' be tainted, my Lord would absolutely
' overthrow his own. *to shew, vqor lna*
' *Prigeon* was to be a Witness for my
' Lord Bishop, and a main Person he
' was, on whom he depended for the
' clearing himself of those Charges, which
' your Lordships know he was taxed
' withal by the first Bill. In the mean
' time a Bastard is laid unto him by *E-*
' *lizabeth Hodgson*, which in my Lord's
' estimation was much disabling to *Pri-*
' *geon's* Testimony; and therefore my
' Lord Bishop what doth he? He not
' only labours to suppress a Truth, and
' to conceal a Fault in his Witness, but
' he will have him discharged of it; *quo*
' *jure quare injuria*, it matters not.

' Hereupon the Proceedings of the
' Justices of the Peace must be either
' made none, or put out of Order, so
' that they stand instead of none. A new
' Father must be found; and because
' there was a Commission to be sat upon,
' and Witnesses to be examined, some
' must be absented till the Commission
' was over; others are deterred and threaten-
' ed: And Sir *John Mounson* and Doc-
' tor *Farmery* must be held for to act
' nothing that must stand in this Cause,
' (though in the publick Sessions) but
' their Orders in that Cause are Pocket
' Orders.

' *Owen* and *Pdwal*, two Servants to
' my Lord Bishop of *Lincoln*, they set
' their wits to work to convey *Alice*
' *Smith* out of the way, and that with
' Rewards of no small Value. Letters
' are written, and much ado there is:
' The several Misdemeanours of *Lunn*
' and *Walker* are apparent enough; and
' *Catlin* he comes not behind the rest.
' Nor must I let him pass, although
' he hath better Luck in the carriage
' of his Knavery than any of the rest,
' and for the procuring, gaining and keep-
' ing of Depositions from the Custody
' of the Council Table, and the Clerks
' there, it's plain enough. I will make
' my Word good, and go to censure.

' *Cadwaller Powell* I fine at 200 l.
' *Owen* I fine at as much; *George Walker*
' and *Catlin* at 300 l. a piece.

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' *Lunn*, (who is an Agent in all the
' Business) I hold him unfit for to be an
' Officer any more (he now being a
' Proctor-Register) I fine him at 300 l.
' And for my Lord Bishop of *Lincoln*,
' I fine him at 10000 l. to the King, and
' to be imprisoned in the Tower during
' his Majesty's Pleasure; and to be sus-
' pended from all his Ecclesiastical Fun-
' ctions, both *ab Officio & Beneficio*; And
' I refer him over to the High Com-
' mission Court, to censure him as they
' think fit concerning his Degrees, and
' to repair Sir *John Mounson's* Reputation,
' to pay him for the Injury done to him
' in particular good Marks.

Sir John Finch his Speech.

My Lords,

' This Cause hath held us already nine
' Days; I find in it six Charges;

1. ' The first and main is for tam-
' pering with Witnesses, to retract their
' Testimonies, or to vary from the same.

2. ' For seducing them not to depose
' at all:

3. ' For undue practising to gain a
' Sight of some Examinations kept in
' the Council-Chamber by the Clerks of
' the Council.

4. ' For preparing and instructing Wit-
' nesses by the said Examinations.

5. ' Perjury in *Catlin* in an Affidavit,
' and Subornation thereof.

6. ' Other undue Proceedings, where-
' by to cause Witnesses to say, that they
' did not remember, or the like.

' I will only insist upon two Things:

1. ' *First*, How this trencheth upon my
' Lord Bishop of *Lincoln*.

2. ' *Secondly*, How far, and in what man-
' ner he pursued it.

' I question not whether the Child
' gotten upon the Body of *Elizabeth*
' *Hodgson* be *Prigeon's*, yea or no: How-
' ever the Justices of the Peace at the
' Sessions, Doctor *Topham* and Doctor
' *Farmery* give up that 'tis laid to him:
' Yet legally *Prigeon* is free; for by a
' Statute 18 *Eliz.* though the Order be,
' yet an Appeal may be made. Now
' in the second Place, what is this to my
' Lord Bishop of *Lincoln*, *utrum pater*
' *fit necne*,

' The Bishop is taxed for scandalous
' Words in matter of State, contrary to
' his Duty as a Subject to his Sovereign,
' contrary to his Oath as a Piv Court-
' sellor,

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fellor. Now *Prigeon* being a Witness, must justify that no such Fault slipped from my Lord Bishop, his Testimony seems to be suspected, and why? Not for the having a Child fathered upon him, but for that he goes about in *publico* to suborn Witnesses, and to wrest the Truth by unlawful courses. And it is to be thought that he, who was of such an evil Conscience, as that he would cause others by any way of Bribes, Gifts, Threats, or the like, to forswear themselves, and hazard their Souls, might himself easily be tampered withal to do unjust Acts; And to take that false Oath also by himself, being led to it by Hopes and Rewards, which he by all means sought to procure in others for his own Safety.

Now if my Lord Bishop of *Lincoln* had used other means, and gone the right way to maintain the Credit of the Witnesses in a fair manner, it had been commendable; but whether he did so or no it is to be enquired after.

By the way my Lord give me leave to say what I think: It is not always necessary in this Court to have a Truth proved by two or three Witnesses: Men will be wary in Bribery and Extortion, and the like, to do it in publick, or to have many acquainted with those Works of Darkness. And *singularis testis* many times shall move and induce me verily to believe an Act done, when more Proofs are shunned.

But to come to some of the Particulars, I find here that *Wetherel* hath been often tampered withal by two of the Bishop's Servants, *Owen* and *Powel*; and there was a Note shewed to *George Walker* to enquire of *Wetherel* whether *Prigeon* had done any thing with him or no.

But to take off this (Mr Recorder saith) *George Walker* is *singularis testis*. Now it's plain *Wetherel* swears punctually, that he met with *Prigeon*, and was advised to speak sparingly and no more than he needs must.

For *Alice Smith*, she deposeth, That *Prigeon* wished her to win *Elizabeth Hodgson* to lay it to some Body else, and he would give 20 s. and so doth *Anne Dove*. Now *Alice* must afterwards equivocate and say she was proffered Money to get her to lay it on the right Father, which to induce her to is no hurt.

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And I find that *Alice Smith* is carried away on Horseback by *Powel*, and absented till the Commission was set and was past at *Lincoln*, and then brought back again by *Powel*. And I find she went out poor and needy, she returns well clad Gentlewoman-like, and able to lend 8 l. at a time, who was (before *Owen* and *Powel* tampered with her) so poor, that her Goods were distrained upon for Rent.

George Walker he saith he could do no good with them, and so writes to the Bishop. Now for *Richardson*, the Bishop told him, that he knew the Orders that were made at the Sessions; And *Richardson* is tampered withal to suppress that Order, and told that if he would, he might do the Bishop good Service.

Now for *Lunn*, I find him run through with the Bishop in all the Case; he teacheth to smother and to equivocate: So that I find *Powel*, *Owen* and *Walker* guilty of the first Charge; *Lunn* I shall sentence, but not for that Charge.

Now my Lord himself out of his own Mouth professed to two Witnesses, viz. to Sir *John Mounson* and one *Edward Smith*, that to defend *Prigeon's* Credit it had cost him 1000 l. if not 1200 l.

My Lord Bishop excepts against some Witnesses, as *Bates*; I hold him faulty; and for Mr *Kilvert's* Misdemeanours (though he did provoke my Lord) yet he should have forborn. It was not so much to affront my Lord Bishop, as to animate his Witnesses for the King, which the Presence of so great a Person might have daunted.

And your Lordships know, that in the Circuit, if a great Man have a Cause at the Bar, he is not to sit on the Bench; his Nod or Frown, nay his bare Presence, (by way of Observation) may do much with inferior Persons. I discommend my Lord for his Passion, and commend *Kilvert* for the zealous Prosecution of his Cause. I must clear Sir *John Mounson*; and for *Parkinson* disguising of himself in the Habit of a Minister, (true it is a Shift they had to find out what might be) but the matter was apparent to all, they knew he was a Counterfeit.

And for *Catlin's* Testimony I weigh it not; but I find my Lord tampering with *Smith*, with *Edward Smith*. He must be brought in by Mr *Mosse*, and

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' at the back Door too; and after that he
' had taken his Oath, was told he had
' sworn maliciously, and was advised be-
' forehand what to say; and the Bishop
' chid him, and asked why he would be
' sworn and not acquaint him, and let
' him know before: And there are many
' Proofs of my Lord Bishop's deborting
' and terrifying others.

' For *Walker*, I shall not censure him,
' being not the manner of this Court to
' censure when he is not charged with any
' particular, but in general.

' For *Lunn*, I find him threatening Mr
' *Kilvert*, and I find him tampering divers
' ways, and getting the Writing from the
' Clerks.

' I agree with my Lord *Cottington*, and
' fine him 1000 Marks. I clear *Moslein*,
' *Catlin* I leave with a *non liquet*; and to
' censure *Lunn* to be disabled (by way of
' his Profession) either to be Register or
' Proctor any more.

' For *Cadwaller*, *Powel* and *Owen*, I
' agree with my Lord *Cottington*.

' And for my Lord Bishop, I censure
' him 10000*l*. Fine to the King's Majesty;
' to be suspended *ab omni Officio & Bene-*
' *ficio* during his Majesty's Pleasure; and
' likewise to be imprisoned in the *Tower*
' during the King's Pleasure, (as my Lord
' *Cottington* said before) also for to repair
' the Credit of Sir *John Mounson*, I fine
' him 1000 Marks to him. And sure, my
' Lords, his Person does not diminish but
' rather aggravate his Faults: For to be
' faulty in scandalizing his Master, and
' then suborningly to bolster up his Fault,
' by such gross and unbeseeming manner,
' is worfe in him than it had been in an-
' other Man.

' For as Mr Attorney well noted, for
' him that is set to have a care of Souls,
' to be Corrupter of them; for him that
' is set as a Light on a Hill, to hide the
' Truth: I call to mind his Greatness,
' his Place and his Dignity: But had he
' lived a private ignorant Man, I should
' have gone very deep with him: But he
' that hath Knowledge to rectify himself,
' and hath sat in the Place to direct Con-
' sciences, to wrest and wrong Consciences;
' I must go as deep full in every thing as
' my Lord *Cottington*, and I shall here
' crave your Excuse, and end.

The Earl of Manchester's Speech.

My Lords,

' I cannot but admire to see, that a
' Man of that Eminence for Parts and

' Fortune, to overshoot himself so far,
' and to be transported in so ignoble a
' way as my Lord Bishop of *Lincoln*
' hath been, [that he would undo his
' own to maintain the Credit of another
' Man.

' Give me leave to unfold the Occur-
' rences, that it may appear how this
' came about, and what occasioned this so
' gross an Error.

' About the fourth Year of his now
' Majesty's Reign, a Bill was exhibited
' into this Court against my Lord Bishop
' of *Lincoln*, the Complaint was about
' Matter of State: Now *Prigeon* was
' a main Witness for the clearing my
' Lord from being held guilty of what
' was thus alledg'd.

' The Bill was slow paced, and slept
' from four 'till almost eight of *Car. Regis*,
' and now a Provocation begets an Infor-
' mation *November 8*; and in *February*
' following the Bastard is born: Here is a
' touch upon *Prigeon's* Credit, this mat-
' ters not to the Bishop for ought we see;
' but in *May* following it must be
' laid on another Father, and one *Boon*
' is found out for the same purpose, and
' it must be fathered on him. The Justices
' of Assize publicly ordered and set it
' down, that it is laid upon *Prigeon*,
' and hereupon he is thought to be disabled
' of his Testimony for the Bishop of
' *Lincoln*, if he have Occasion to use him
' for his clearing, in case of those Ac-
' cusations and Informations laid against
' him.

' Whereupon this *Prigeon* must be set
' upright and made an honest Man, and
' be rectified, (though it be by indirect
' and unlawful Means:) nay most un-
' conscionable Courses, by wresting the
' Consciences, and falsifying Oaths for
' the same.

' Now my Lords, your Lordships well
' know, that every Man's State, every
' Man's Credit, his Possessions and Lively-
' hood, much depends upon Oaths: For
' if not upon the Jurors, yet the Wit-
' nesses in any Case of Evidence, (be it
' for matter of Title or matter of Fact)
' if they be by sinister Courses, and Bribes
' and Threats, (be it for Fear or for
' Love) if they be caused to swear against
' their Conscience, and that Tye to be
' taken away, whereby they stand obliged
' before God and Men, to give Right to
' the Truth, no Man is sure of any thing
' he enjoys, nor can expect to get any thing
' that is unjustly detained and withheld
' from

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from him, in the Proceeding of any Court whatsoever.

And I find my Lord Bishop much to blame, and indeed no more than an Abbettor in many Passages of this Cause tending this way.

There be six Faults he is charged withal, and I find him faulty in three great ones.

For his tampering with Witnesses it is plain enough, and I am sorry it breaks out so in all the way as the Cause goes.

1. In withdrawing Witnesses, and absenting them out of the way. 2. In preparing, fitting and disposing Witnesses to his own Ends. 3. In deterring them before they are to take Oath, and threatening them after. 4. In sifting out unlawfully (by indirect and sinister Courses) what Evidence and Proof was given, so to be better enabled to have cross Oaths and Proofs against the Evidence that was before. 5. To cause Witnesses to speak less than they know, and to conceal the Truth, or at least to vary from that which they had formerly sworn. 6. Getting the Copies out from the Clerks of the Star-Chamber, and keeping them a long time from that Place where they ought to be and reside.

Now for a Man of Art, of a prompt and ingenious Wit, a well experienced Man, who hath been a Judge, and well knew the Inconveniences of these Defaults, and the grossness of them, to run into them so violently, and so foul, I cannot but admire and much pity him.

Nay he doth take upon him to defend and patronize *Catlin* too, although it be absolutely to overthrow and undo himself. But as it is said, *Nemo laeditur nisi a seipso*, if his Lordship had not been over-busy for to do those Men good, he had never done himself this harm.

Now for *Kilvert's* Affront to him, I must needs say it may seem over-much in the Place where it was done, being in the chief Place of the Diocese, and to his own Person: but being it was in such a Cause, where Witnesses were to be heard and examined for the King, and my Lord being a great Man in that Place, I pass it by, as his Zeal and Earnestness in Prosecution of the Cause which might else have suffered, had he not used the better Courage, and put the better Face upon it.

For the getting the Writings from the Council-Chamber it is plain enough, and they were absent long enough, and

whether he had used or perused them it matters not, surely he would not have them gotten from their due Station and place of Abode only to lie by him, but that he would make use of them: And I must needs commend Sir *William Beecher's* Discretion and Ingenuity, for his Courage in that Particular.

Your Lordships have heard already by the two Lord-Chief-Justices, what the Nature of these Crimes are; (though it be not Subornation of Perjury) yet it is manifest Injury to the witnessing of a Truth; and I suppose both they that do prevail, and they that are over-ruled and won to such dishonest Courses, are much faulty; and therefore I shall agree with my Lord *Cottingham* for the Fine upon the two Servants of my Lord Bishop, *Owen* and *Powel*.

And also I fine *Lunn* in one thousand Marks; I clear *Moslein*, and I must not let *Catlin* escape (if I can legally do it) but he hath better Fortune than the rest, though I think not a whit less culpable.

And for my Lord Bishop, I must, for his Fine, Imprisonment and Suspension from his Dignities, Offices and Benefices, agree with my Lord *Cottingham*, and so in all the rest.

The whole Fine of ten thousand Pounds was afterwards levied on the Bishop; and about a Fortnight after, he was suspended by the High Commission, and Imprisoned in the Tower three Years and upwards. But the Fine of three hundred Pounds, which Mr *Walker* his Secretary was condemned to pay, and the like Sum which *Cadwalloer Powell* his Steward was to have paid, and the Fine of one thousand Marks set upon *Lunn*, Clerk of the Kitchen to the Bishop, were not demanded, nor were any of them imprisoned except *Lunn*, and he but for a few Weeks.

In the Year 1638, another Information was preferred against the Bishop of *Lincoln* and *Lambert Osbaldston*, Schoolmaster of *Westminster* School, by the Attorney General, which charged them with making and publishing several scandalous Libels reflecting on the Archbishop of *Canterbury* and the Lord Treasurer *Weston*, both of his Majesty's Privy Council; and particularly that the Defendant *Osbaldston* wrote two scandalous Letters to the Bishop, which the Archbishop received and published, and did not transmit them to the Privy Council or to any Magistrate, as he ought to have done. The Letters were of the following Tenor, viz.

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The Fine levied on the Bishop.

The rest of the Defendants spared,

A third Information preferred against the Bishop and *Osbaldston*.

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My dear Lord,

'I cannot be quiet, but I must write to your Lordship. The Sport is grown tragical, any thing would be given for a Sound and thorough Charge, to push at and confound the little Urchin. The Spaniards and the Hollanders are both approvedly and firmly joined to effect the same, if your Lordship lend your Assistance, which I am bound to implore and require. Let them in the mean time scratch one another to the Bones. I use Freedom of Heart, it is something of Revenge, that a brave Soul (as your Lordship is) hath some Hopes of Support in the midst of a Flood of Destruction.'

Westminster-School,

Jan. 30, 1633.

Likewise there was produced the Bishop's Letter of the 2d of February to a Friend, to this Purpose,

'Mr Osbaldston reported to me by Letters, That it was desired that I should contribute my Endeavours to be useful to the Lord Treasurer against the little great Man, and assured me that they were mortal Enemies. But for my Part, I refuse to meddle with any such thing; yet I pray you, learn whether it be so or no, least some have gulled Mr Osbaldston in his three last Letters. If the Lord Treasurer would be served by me, he must free me from the Bonds of the Star-Chamber, otherwise let them fight it out for me.'

Osbaldston's
Answer.

It was answered in the Behalf of Mr Osbaldston, That what was done by him, was done in private Letters sealed to an honourable Friend. And it was confessed to be Error in him, to use such Familiarity in some Passages therein expressed. That he doth deny, that by the Appellations therein mentioned, he did mean the Archbishop's Grace, or the Lord Treasurer. But he meant thereby one Spicer, which took upon him to be a Doctor and was none, that he had divers times used between jest and earnest, to call him little Urchin, Vermin, little Hocus-Pocus in the Velvet Jerkin; and that there were some Differences between him and the Bishop of Lincoln; and by Leviathan, he meant Chief Justice Richardson, who had formerly committed Spicer (in Westminster-Hall) and he confessed he did merrily use that Name, the Person being apt to take a Jest in good part.

On the Bishop of Lincoln's Part it was offered, That if any such Letters were sent by Mr Osbaldston, yet he denied the Receipt of them, and for the Interpretation of those Appellations, he conceived the Writer was the best Interpreter; that he had many times heard Mr Osbaldston call Spicer by the Name of Hocus-Pocus, and he used to call Richardson by the Name of Leviathan, and denieth the publishing of any such Letters, or so much as the speaking of any such at his Table.

This Cause being brought to Tryal in the Court of Star-Chamber in February, 1638, the Members of that Court made Speeches as usual, before they passed Sentence, and particularly Sir John Finch, Lord-Chief-Justice of the Common Pleas, and the Earl of Dorset: From whence the Merits of the Cause may be easily collected. And first, Sir John Finch said,

My Lords,

'As there are two Defendants, so there are two Charges in the Information against them.

'First, They are charged with giving nick Names unto two honourable Persons of this Realm.

'Secondly, They are charged to plot and contrive to work an utter Ruin and Over-throw to my Lord Archbishop of Canterbury. And in those Charges, I shall observe several Steps and Degrees.

'First, An Endeavour and Agreement between Osbaldston and my Lord Bishop of Lincoln, to reproach and scandalize these two noble Persons.

'Secondly, A publishing and divulging the same.

'In the second Charge, I observe these Steps.

'First, A false Rumour raised by them.

'Secondly, A publishing the same.

'Thirdly, An Endeavour to work the Ruin of the Lord Archbishop of Canterbury, by contributing Charges to effect the same.

'And how far Osbaldston and the Bishop of Lincoln are guilty, I appeal to your Lordships. I shall now shew the extent of the Information, the Charge being laid to be in or about the 10th of February, 9 Car. which Charge doth comprehend all libellous Letters, either before or since 9 Car.

'But it is true, if in the Letters will not appear that Sense which is contained in the Charge, then they shall not be within the Charge of the Information, and therefore the Information admits of

'as

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'as much Favour to the Defendants as
'may be: For this Court doth rather de-
'fire to find Men innocent than guilty.

'I shall now come to the Particulars,
'and shall herein observe the Course of
'the Defendant's Council, who have dis-
'tinguished my Lord of *Lincoln's* Case
'from *Osbaldston's*, and so shall put a Dif-
'ference between them: For though
'*Osbaldston* be guilty, yet it is possible
'my Lord of *Lincoln* may not be guilty.

'As for *Osbaldston*, I hold him as clear-
'ly guilty of the Charges in the Infor-
'mation, as any have been sentenced in
'this Court.

'For first, *Osbaldston* was the Contriver
'and Publisher of those scandalous Let-
'ters, and I think there is no doubt at all;
'but that they were meant of the late
'Lord Treasurer, and the now Lord
'Bishop of *Canterbury*.

'Secondly, Your Lordships may observe,
'what Interpretation the Lord Bishop of
'*Lincoln* would make of them: How
'that my Lord of *Lincoln* did conceive
'he meant the Archbishop of *Canter-*
'*bury*.

'The third is by Witnesses.

'First *Walker* said, That he saw divers
'Letters wherein *Osbaldston* had explained
'his Meaning, That he meant my Lord
'Treasurer, and my Lord's Grace of
'*Canterbury*.

'Again he saith, He saw some Letters
'wherein *Osbaldston* used By-words,
'which my Lord of *Lincoln* did not un-
'derstand, untill *Osbaldston* had explained
'them.

'Again he saith, His Lordship did ex-
'plain many of these dark Words that
'*Osbaldston* wrote unto him, shewing that
'he meant my Lord's Grace of *Canter-*
'*bury*.

'Again he saith, That *Osbaldston* spoke
'base Words of the Archbishop.

'And these be his Reasons why he
'conceives, that by the Words in the
'Letters he means the Archbishop of *Can-*
'*terbury*, which I conceive to be very good
'and sufficient Reasons.

'The second Witness is *Cadwallar*
'*Powel*, who saith, He used these Words
'in a Letter, *The little Vermin, the false*
'*Mediator, the Hocus Pocus*. And the
'Bishop of *Lincoln* being in the Tower;
'demanded of *Powel*, Whether any of
'Mr *Osbaldston's* Letters were found?
'who answered, That they were found:
'Then said the Bishop, *Osbaldston* is
'undone.

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'Thus I have thought good to make a
'Difference betwixt my Lord of *Lincoln*
'and Mr *Osbaldston*; for it is confessed
'by my Lord of *Lincoln*, that by one of
'those is meant my Lord Treasurer; but
'that shall not convict Mr *Osbaldston*, but
'it is plain by his own Words what he
'meant. And that by those Words should
'be meant Dr *Spicer*, I hold it so ridicu-
'lous a Defence, that I think he could not
'have deceived his School-Boys with it.

'And that by *Leviathan* should be meant
'my Lord *Richardson*, there is no Co-
'lour for that, for though Dr *Spicer* were
'confounded, what would the King or
'State suffer by his Ruin or Confusion?
'so that certainly it is meant of the Arch-
'bishop of *Canterbury*.

'For Mr *Osbaldston's* going away, it is
'not judicially known unto me, and
'therefore leave it to your Lordships.

'And as for the second Charge; That
'he did plot and contrive for the Ruin of
'the Lord Archbishop of *Canterbury*; I
'hold that he is guilty, and that he did stir
'my Lord of *Lincoln* to contribute Money
'for that Purpose.

'For my Lord of *Lincoln*, I shall only
'say this, That the Letter of the 9th of
'*January* is such a turbulent and scan-
'dalous Libel, that a Man of Place and
'Quality should not give any way there-
'unto. But that he should receive it, en-
'tertain it, and publish it; this shews
'that he had long a Rancor and Hatred
'towards my Lord Archbishop.

'And for the Nick-names, I shall find
'my Lord of *Lincoln* guilty as far forth
'as Mr *Osbaldston*; for he did entertain
'these Letters, and did publish them; and
'it was an Agreement and Confederacy so
'to do.

'By Way of Defence my Lord Bishop
'of *Lincoln's* Council did alledge,

'First, That there was an Agreement
'between *Osbaldston* and my Lord of *Lin-*
'*coln*. Again they said, that there was
'no certain Appellation of my Lord Arch-
'bishop of *Canterbury*.

'Secondly, There was Proof that my
'Lord of *Lincoln* did not speak any such
'Words at his Table.

'Thirdly, They endeavoured to prove,
'That my Lord of *Lincoln* never wrote
'any Letters containing any libellous mat-
'ter; when as there was a Letter under
'his own Hand, which he would not con-
'fess; although he was brought like a Bear
'to the Stake, and three times examined
'about it.

'Again

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' Again they said, that he did not receive them; and yet he wrote an Answer to them.

' Again, admit he did receive them, yet he did not publish them, but only delivered them to Mr *Walker*, his Secretary.

' Mr Attorney well remembered the Law, That if a libellous Letter, concerning a private Person, then he may conceal it; but if it concern a publick Officer, then the concealing of it makes him guilty thereof; and yet the Letters were published is most certain; for they were openly spoken of by Women in the Market.

' Another thing of Mr Recorder's was this, that if my Lord Bishop of *Lincoln* did understand *Osbaldfon's* meaning, yet he did not understand that he meant my Lord Treasurer, and my Lord's Grace of *Canterbury*.

' Then I say he hath scandalized my Lord Treasurer and my Lord Archbishop of *Canterbury*; for by his own Writing he saith, that it was meant of these Persons.

' The next is the Charge of a Plot laid for the Ruin of my Lord Archbishop of *Canterbury*, but I will not condemn my Lord Bishop of *Lincoln* for that.

' The next Defence of Mr Recorder was this, That Mr *Osbaldfon* wrote to the Bishop of *Lincoln*, saying, *I hope you will pick out the Meaning, &c.* so that there was no Confederacy and Agreement between them.

' First, I say he received the Letters and published them.

' Secondly, He was so far from nipping these Scandals in the Buds, that he enquired farther after them.

' Thirdly, That he was ready and willing to contribute Money towards the Ruin of my Lord Archbishop of *Canterbury*.

' I am sorry that a Man of his Rank and Condition, should make himself Companion with a School-master.

' And as for the Asperision which they cast upon Mr *Walker*, to take away his Testimony, I see no just Cause thereof.

' For they said; Either his Deposition is impossible and beyond his Knowledge, or else that his Reasons that moved him thereunto are insufficient. But for my Part, I know not how a better Reason can be given.

' Another Objection against *Walker* is this, That it was long before these Let-

ters were brought forth; and that these are not all, but there should be a third Letter.

' I say it is a Wonder that so many were brought forth now, but that they had been lost, or that my Lord of *Lincoln* had burnt them: For had I a Friend that I professed so much Kindness to; as he did to *Osbaldfon*, I should be very sorry that he should suffer for his Letters.

' For the Testimony of *Cadwalloer Powel*, I hold his Testimony as fit to be taken as my Lord Bishop of *Lincoln*.

' And for the Charge of the Defendants Council, for the subtil Prosecution by the Solicitor *Kilvert*, I shall say little, I know him to be of a good Carriage in other Businessses, therefore if any Fault be, I shall only desire that it may be amended for the time to come. I hold that these Witnesses stand upright; and as for the other Witnesses, I submit unto your Lordships, for in Sentence I must consider the Nature of the Cause, and the Persons.

' First, I shall not acquit my Lord Bishop of *Lincoln*, nor condemn him as much as Mr *Osbaldfon*.

' I must consider the Persons offending, and the Persons against whom they have offended.

' For the Persons offended, the first is the Lord Treasurer of *England*, one of his Majesty's Privy-Council.

' And the second is the Metropolitan of *England*, who hath ever carried himself with great Trust and Fidelity towards his Majesty and the publick Good.

' And I verily think, that none can accuse him of the least Corruption. In a Court where most Causes of the Clergy are tried, I did never receive any private Message from his Lordship in the Behalf of any Clergy-man, which is a thing to be much observed in him.

' For Mr *Osbaldfon*, he hath been a Parson, a Prebend and a School-master. My Lords I will not suffer him, he is so turbulent a Person, and scandalous Libeller, to teach and instruct others. I would have him therefore deprived of all his spiritual Dignities and Promotions, that he never have any Place in the Church; neither hold I it fit that he should teach Scholars, (should I do him Justice, I should adjudge him some severe corporal Punishment;) I would have him deprived in the High-Commission

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' Commission Court, and then to be set on
' the Pillory in this *Palace Yard*: And that
' he may be an Example to his Boys, I
' would have him also to stand on the Pil-
' lory in the *Dean's Yard*, and one Ear to
' be nailed in the *Palace*, and the other
' Ear to be nailed in the *Dean's Yard*.

' I do fine him five thousand Pounds,
' and Imprisonment during the King's
' Pleasure.

' And I do fine my Lord Bishop of
' *Lincoln* five thousand Pounds.

' And I do give to my Lord Archbishop
' of *Canterbury*, five thousand Pounds a-
' piece for Damages.'

*The Earl of Dorset's Speech at the Sen-
tence of Mr Osbaldston.*

' *Aristotle* in his Politicks, admits not
' in the Government of any School-master
' to the Exercise of Civil Duties, School-
' masters commonly proving the *Apes* of
' *Tyranny*, and being used to Imperious-
' ness over Scholars. If you put a Sword
' of Justice into his Hand, you may easi-
' ly guess how he will lay about him in
' the State and City.

' I know not with what Spirit of Vanity
' this School-master was possessed; but
' we see the monstrous Birth of it. If
' the Pedant had kept within his Rules,
' he might have been taught not to have
' disturbed Government. Look upon his
' pragmatistical Person, and behold the Fact,
' and what were the Motives, what the
' Reasons, to bring him upon the Stage.

' His ill Thoughts expressed in Ink as
' black as his Crime; his Pen was steeped
' in Vinegar and Gall. What was it that
' stained the Bishop of *Lincoln's* Ear with
' the Poison of ignominious Titles? It
' was the Pedant. Who was it, that as
' a Thief that had stolen another's good
' Name away, cries, *Burn my Letters*, on
' purpose to go in Darkness of the Night?
' It was a Parson. Who was it that en-
' deavoured to stain the Purity of my
' Lord Archbishop's Honour with foul
' Aspersions of Titles, *Little Grace*, *Lit-
tle Urchin*, *Vermin*, &c? It was Mr
' *Osbaldston*.

' Well, I will speak what I think; I
' fear none but God and the King, and I
' speak in Truth, I am sure I shall offend
' neither of them. I have enquired of
' them who are learned in the Laws,
' who say, That the plainest Sense is to be
' taken. The Divines will tell you, That
' the easy Places shall explain the more

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' obscure. And if any Man would ex-
' amine those Letters, and with judicious
' comparing the Title of *Little Grace*
' with the other, he will be forced to con-
' fess the Sense of the other, or else be
' blind at Noon-day.

' But as Truth may be cleared by strong
' and solid Reason, so it may be darkened
' and shadowed by the Colours of Proba-
' bility of Appearances.

' But my Lords, I think the School-
' master alledges his Services to the Com-
' monwealth, and his being slighted for
' it; That he hath been these many
' Years, and dedicated his Pains and Time
' for the Good of the Flowers of the
' Kingdom *Generosa debentur*. But I
' will consider him as a Man subject to
' his Passion, (which to take away, were
' to take away the Man himself :) I will
' allow him his Infirmities, but observe
' a little his Envy, see his Merits and De-
' serts, which he hath so foully abused
' with the height of Insolency and bold
' Access, to the very Secrets of Empire
' and Government, to the Disgrace of
' those Men of which the Commonwealth
' consists. I know not (my Lords) the
' Fault of the Man may transport my
' Speech, that I abuse your Patience; but
' I shall give my Censure of him; I learn-
' ed in the University, how that a Syllo-
' gism doth ever follow the first Part, *Se-
quitur deteriorem ad partem*, I am sure
' his Letter doth. He might have found
' a better Medium to make up a Syl-
' logism of a Libel, for he hath conclud-
' ed in the worst Body of all the Figures,
' viz. in *Bocardo*: So I must concur with
' my Lord *Finch* in Censure.

' As for my Lord of *Lincoln* linked
' in this Cause, I honour the Man for
' many Causes in many Relations, but
' for his Secretary *Walker*, and the Clerk
' of his Kitchen, and the rest, (where-
' ever the Letters were found :) they have
' dealt like *Ateon's* Hound, that turned
' against and devoured his Master. The
' false Secretary, the unjust Steward, and
' the unlawful Clerk of the Kitchen, who
' were fed at my Lord Bishop of *Lin-
coln's* Table in his Prosperity, and now
' in his Adversity, they fall upon their
' Master to devour him. I must say of
' him, he hath forgotten himself, and a-
' gree to the Censure which the Lord-
' Chief-Justice *Bramstone* hath given a-
' gainst him. He did not as *Peter* did,
' when he denied his Master, *go out and
weep bitterly for his Offence*, but he
Z z z justifies

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justifies himself, and therefore he is fallen into the Lime-twigs of his Adversary.

In the End, the Sentence of the Court was,

That Mr *Osboldston* should be fined five thousand Pounds to the King, and pay five thousand Pounds Damages, to the Archbishop; be deprived of all spiritual Dignities and Promotions, imprisoned during the King's Pleasure, and to make Submission.

That the Bishop of *Lincoln* be fined five thousand Pounds to the King, and three thousand Pounds to the Archbishop; to be imprisoned during the King's Pleasure, and to make Submission.

And *Osboldston* was sentenced to stand in the Pillory in the *Dean's Yard*, before his own School, and his Ears to be only nailed to the Pillory.

Osboldston
escapes.

It so happened, though the Report was that Mr *Osboldston* was run away, that he was in Court, standing in the Croud, at the Censure; and when he heard the said Censure of some of the Lords, he guessed the Cause would go against him, and knowing the Rule of the Court, That if the Warden should espy him in Court, he might command his Tipstaff to apprehend him, as soon as the major Part of the Court had past Censure upon him, although the Lord Keeper had not then given his Sense, he got out of Court, went to his Study at the School, burnt some Papers, and writ on a Paper which he left on his Desk, *That if the Archbishop enquire after me, tell him, I am gone beyond Canterbury.* Whereupon Messengers were sent to the Port Towns to apprehend him; but he lay hid in a private House in *Drury-lane*, 'till the Parliament met in 1640.

The Bishop
released, presents
his
Grievances
to the Par-
liament.

About two Years after, viz. in the Year 1640, the Bishop was released out of the Tower, and took his Seat in Parliament, when he presented his Grievances to the House, complaining of the indirect Prosecution of the said Causes against him; setting forth,

I. That his Adversaries utterly waved and declined the Matter of their first Information, about revealing the King's Secrets, as hopeless of Success therein; and sprung a new Mine to blow up his Credit, about Perjury in the Examination of Witnesses: Whereas he conceived it just, that all Accidentals and Occasionals should sink with the Substance of the Ac-

cusation, otherwise Suits would be endless, if the Branches thereof should still survive when the Root doth expire.

II. That he was deprived of the Benefit of bringing in any Exceptions against the Testimonies of Sir *John Lamb* and Dr *Sibthorpe*, to prove their Combination against him, because they deposing *pro Domino Rege*, none must impeach the Credit of the King's Witnesses, who must be reputed holy and sacred in what they averr, in so much, that after Briefs were drawn by Council on both Sides, the Court was moved to expunge those Witnesses, which made most against the King, and for the Defendant.

III. That *Kilvert* used all Ways to menace and intimidate the Bishop's Witnesses, frightening them as much as he could out of their own Consciences, with Dangers presented unto them. To this Purpose he obtained from Secretary *Windebank*, that a Messenger of the Star-Chamber, one *Pechye* by Name, should be directed to attend him all along the speeding of the Commission in the Countrey, with his Coat of Arms upon him, with Power to apprehend and close imprison any Person whom *Kilvert* should appoint, pretending from the Secretary Warrants for Matters of State, and deep Consequence so to do; by Virtue whereof, in the Face of the Commission, he seized on, and committed *George Walker* and *Thomas Lunn*, two material Witnesses for the Bishop; and by the Terror thereof, chased away many more, whose Depositions were necessary to the clearing of the Bishop's Integrity: Yet when the aforesaid two Prisoners, in the Custody of the Messenger, were produced before Secretary *Windebank*, he told them he had no Matters of State against them, but turned them over to *Kilvert*, wishing them to give him Satisfaction; and they were not permitted to have their Liberty, until after long close Imprisonment, they were forced to confess, under their own Hands, Crimes against themselves and the Bishop, which afterwards they denied and revoked upon their Oaths.

Lastly and chiefly, That the Judges privately over-ruled his Pleas, so that what Shame, and the Honour of the Court, with the Inspection of so many Eyes, would not permit to be done publicly in the Sun-shine of Justice, was posted over by a Judge privately in a Corner.

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Bishop Williams's Character.

The Character of Bishop Williams, by Lord Clarendon.

Doctor Williams was a Man of a very imperious and fiery Temper; he had been Bishop of *Lincoln*, and Keeper of the Great Seal of *England* in the time of King *James*. After his removal from that Charge, he had lived splendidly in his Diocese, and made himself very Popular amongst those who had no Reverence for the Court, of which he would frequently and in the Presence of many speak with too much Freedom, and tell many Stories of Things and Persons upon his own former Experience; in which, being a Man of great Pride and Vanity, he did not always confine himself to a precise Veracity, and did often presume in those unwary Discourses to mention the Person of the King with too little Reverence. He did affect to be thought an Enemy to the Archbishop of *Canterbury*; whose Person he seemed exceedingly to contemn; and to be much displeased with those Ceremonies and Innovations as they were then called, which were countenanced by the other; and had himself published by his own Authority a Book against the using those Ceremonies in which there was much good Learning and too little Gravity for a Bishop. His Passion and his Levity gave every Day great advantages to those who did not love him, and he provoked too many not to have those advantages made use of: So that after several Informations against him in the Star-Chamber, he was Sentenced and Fined in a great Sum of Money to the King, and committed Prisoner to the *Tower* without the Pity or Compassion of any but those who out of Hatred to the Government, were sorry that they were without so useful a Champion; for he appeared to be a Man of a very corrupt Nature, whose Passions could have transported him into the most unjustifiable Actions.

He had a Faculty of making Relations of things done in his own Presence, and Discourses made to himself or in his own hearing, with all the Circumstances of answers and replies; and upon Arguments of great Moment: All which upon Examination were still found to have nothing in them that was real, but to be the pure effect of his

own Invention. After he was sentenced in the Star-Chamber, some of his Friends resorted to him, to lament and condole with him for his Misfortune: And some of them seemed to wonder that in an Affair of such a Nature, he had not found means to have made some Submission and Composition, that might have prevented the publick hearing, which proved so much to his Prejudice in point of Reputation, as well as Profit. He answered them with all the Formality imaginable, *That they had Reason indeed to wonder at him upon the Event; but when they should know how he had governed himself, he believed they would cease to think him worthy of Blame.* And then related to them, that as soon as Publication had passed in his Cause, and the Books were taken out, he had desired his Council (who were all able Men, and some of them very eminent) in the Vacation Time, and they at most Leisure to meet together, and carefully to look over, and peruse all the Evidence that was taken on both Sides; and that they would attend him such a Morning, which he appointed upon their Consent, at his own House at *Westminster*: That they came at the time appointed, and being then shut up in a Room together, he asked them, Whether they had sufficiently perused all the Books, and were thoroughly informed of his Case? To which they all answered, that they had not only read them all over together, but had severally every Man by himself perused them again, and they believed they were all informed of the whole. That he then told them, he had desired this Conference with them, not only as his Council, by whose Opinion he meant to govern himself, but as his particular Friends, who he was sure would give him their best Advice, and persuade him to do every thing as they would do themselves, if they were in his Condition. That he was now offered to make his Peace at Court, by such an humble Submission to the King, as he was most inclined and ready to make; and which he would make the next Day after his Cause was heard, though he should be declared to be innocent, of which he could make no Doubt: But that which troubled him for the present was, that the Infamousness of the Charge against him, which had been often exposed, and enlarged upon in several Motions, had been to

much

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' much taken notice of through the King-
' dom, that it could not consist with his
' Honour to divert the Hearing, which
' would be imputed to his Want of Con-
' fidence in his Innocence, since Men
' did not suspect his Courage, if he durst
' rely upon the other: But that he was
' resolved, as he said before, the next
' Day after he should be vindicated from
' those odious Aspersions, he would cast
' himself at the King's Feet, with all the
' Humility, and Submission, which the
' most guilty Man could make Profession
' of. It was in this Point he desired their
' Advice, to which he would, without
' adhering to his own Inclination, entire-
' ly conform himself; and therefore de-
' sired them, singly in order, to give
' him their Advice. He repeated the
' several and distinct Discourses every
' Man had made, in which he was so
' punctual, that he applied those Phra-
' ses and Expressions and manner of
' Speech to the several Men, which they
' were all taken notice of frequently to
' use as many Men have some peculiar
' Words in Discourse which they are
' much delighted with, or by Custom
' most addicted too: And in Conclusion,
' that they were unanimous in their
' Judgments; that he could not with
' the Preservation of his Honour, and the
' Opinion of his Integrity, decline the
' publick hearing where he must be un-
' questionably declared Innocent; there
' being no Crime or Misdemeanour proved
' against him in such a manner, as
' could make him liable to Censure.
' They all commended his Resolution of
' submitting to the King as soon as he
' had made his Innocence to appear; and
' they all advised him to pursue that
' Method. This he said had swayed
' him, and made him decline the other
' Expedient that had been proposed to
' him.

' This Relation wrought upon those, to
' whom it was made, to raise a Prejudice
' in them against the Justice of the Cause,
' or the Reputation of the Council as they
' were most inclined: Whereas there was
' not indeed the least shadow of Truth in
' the whole Relation; except there was
' such a Meeting and Conference as was
' mentioned, and which had been consent-
' ed to by the Bishop upon the joint desire
' and importunity of all the Council: Who
' at their Conference unanimously advised
' and desired him, to use all the means
' and Friends he could that the Cause

' might not be brought to hearing; but
' that he should purchase his Peace at any
' Price, for that if it were heard, he would
' be sentenced very grievously: And that
' there were many Things proved against
' him, which would so much reflect upon
' his Honour and Reputation, and the
' more for being a Bishop, that all his
' Friends would abandon him, and be for-
' ever after ashamed to appear on his be-
' half. Which advice with great Passion
' and Reproaches upon the several Persons
' for their Presumption and Ignorance in
' matters so much above them he utterly
' and scornfully rejected. Nor indeed was
' it possible at that time, for him to have
' made his Peace; for though upon some
' former Addresses, and Importunity on
' this behalf by Persons of Power and
' Place in the Court, in which the Queen
' herself had endeavoured to have done
' him good Offices, the King was inclin-
' ed to have saved him, being a Bishop,
' from the Infamy he must undergo by a
' publick Tryal; yet the Bishop's Vanity
' had in those Conjectures so far transpor-
' ted him, that he had done all he could to
' have insinuated, that the Court was asham-
' ed of what they had done, and had pre-
' vailed with some of his powerful Friends
' to persuade him to that Composition;
' upon which the King would never hear
' more any Person who moved on his
' Behalf.

' It had been once mentioned to him,
' whether by Authority or no was not
' known, that his Peace should be made
' if he would resign his Bishoprick and
' Deanery of *Westminster* (for he had that
' in Commendam) and take a good Bisho-
' prick in *Ireland*; which he positively re-
' fused, and said, he had much to do to
' defend himself against the Archbishop
' here; but if he was in *Ireland*, there
' was a Man (meaning the Earl of *Straf-*
' *ford*) who would cut off his Head within
' one Month.

' This Bishop had been for some Years
' in the *Tower* by the Sentence of the Star-
' Chamber, before this Parliament met
' 1640, when the Lords who were the
' most active and powerful, presently re-
' solved to have him at Liberty. Some
' had much kindness for him, not only
' as a known Enemy to the Archbishop of
' *Canterbury*, but as a Supporter of those
' Opinions, and those Persons which were
' against the Church it self. And he was
' no sooner at Liberty, and brought into
' the House, but as has been before men-
' tioned

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tioned, he defended and seconded he Lord Say, when he made an Invective with all the Malice and Bitterness imaginable, against the Archbishop then in Prison: And when he had concluded, that Bishop said, That he had long known that noble Lord, and had always believed him to be as well affected to the Church as himself; and so he continued to make all his Address to that Lord and those of the same Party. Being now in full Liberty, and in some Credit and Reputation, he applied himself to the King, and made all possible Professions of Duty to His Majesty, and Zeal to the Church; protesting to have a perfect Detestation of those Persons, who appeared to have no Affection or Duty towards His Majesty: And of all evil Intentions against the Religion established: And that the Civility he had expressed towards them, was only out of Gratitude for the good Will they had shewed him; and especially that he might the better promote His Majesty's Service. And it being his turn shortly after as Dean of *Westminster* to preach before the King, he took occasion to speak of the Factions in Religion; and mentioning the *Presbyterian* Discipline, he said, It was a Government only fit for *Taylor*s and *Schoemakers*, and the like; not for Noblemen and Gentlemen: Which gave great Scandal and Offence to his great Patrons; to whom he easily reconciled himself by making them as merry with some sharp sayings of the Court, and by performing more Substantial Offices for them.

When upon the Tryal of the Earl of *Strafford*, it was resolved to decline the Judgment of the House of Peers, and to proceed by Bill of Attainder; and thereupon it was very unreasonably moved, that the Bishops might have no Vote in the passing that Act of Parliament, because they pretended it was to have their Hand in Blood which was against an old Canon; this Bishop without communicating with any of his Brethren, very frankly declared his Opinion, that they ought not to be present, and offered not only in his own Name, but for the rest of the Bishops, to withdraw always when that Business was entered upon; and so betrayed a fundamental Right of the whole Order, to the great Prejudice of the King, and to the taking away the Life of that Person, who could not otherwise have suffered.

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And shortly after when the King declared, that he neither would, nor could in Conscience, give his Royal Assent to that Act of Attainder, when the Tumults came about the Court with Noise and Clamour for Justice, the Lord Say desired the King to confer with his Bishops for the Satisfaction of his Conscience, and desired him to speak with that Bishop in the Point. After much Discourse together, and the King insisting upon many Particulars, which might induce others to consent, but were known to himself to be false, and therefore he could never in Conscience give his own Consent to them, the Bishop, as hath been mentioned before, amongst other Arguments told him, that he must consider, that as he had a private Capacity and a publick, so he had a publick Conscience as well as a private; That though his private Conscience as a Man would not permit him to do an Act contrary to his own Understanding, Conscience and Judgment, yet his publick Conscience as a King which obliged him to do all things for the good of his People, and to preserve his Kingdom in Peace for himself and his Posterity, would not only permit him to do that, but even oblige and require him. That he saw in what Commotion the People were: That his own Life, and that of the Queen's, and the Royal Issue might probably be sacrificed to that Fury; And it would be very strange if his Conscience should prefer the Life of one single private Person how innocent soever, before all those other Lives and the Preservation of the Kingdom.

This was the Argumentation of that unhappy Casuist, who truly it may be, did believe himself; For towards the End of the War, and when the King's Power declined, he being then an Archbishop, did in Person assist the Rebels to take a Castle of the King's; in which there was a Garrison, and which was taken by a long Siege; because he might thereby the better enjoy the Profits of his own Estate which lay thereabouts.

Upon all these great Services he had performed for the Party, he grew every Day more imperious; And after the King thought it necessary to make him Archbishop of *York*, which as the time then was, could not qualify him to do more Harm, and might possibly dispose and oblige him to do some good; he carried himself so insolently in the House and out of the House to all Persons, that he

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became much more odious universally, than ever the other Archbishop had been, having sure more Enemies than he, and few or no Friends, of which the other had abundance. And the great Hatred of this Man's Person and Behaviour was the greatest Invitation to the House of Commons so irregularly to revive that Bill to remove the Bishops; And was their chief encouragement to hope that the Lords, who had rejected the former, would now pass and consent to this second Bill.

This was one of the Bishops who was rudely treated by the Rabble who gathered themselves about the House of Peers, crying out, *No Bishops! No Bishops!* And his Person was assaulted and Robes torn from his Back; Upon which in very just Displeasure, he returned to his House the Deanery at *Westminster*, and sent for all the Bishops, who were then in the Town (it being within very few Days of *Christmas*) of which there were twelve or thirteen. And in much Passion, and with his natural Indignation he proposed as absolutely necessary, that they might unanimously and presently prepare a Protestation, to send to the House, against the force that was used upon them; and against all the Acts, which were or should be done during that time, that they should by Force be kept from doing their Duties in the House. And immediately having Pen and Ink ready himself prepared a Protestation, which being read to them they all approved, depending upon his great Experience in the Rules of the House, where he had sat so

many Years, and in some Parliaments in the Place of Speaker, whilst he was Keeper of the Great Seal, and so presuming, that he could commit no Error in matter or form: And without farther Communication and Advice, which both the Importance of the Subject and the Distemper of the time did require, and that it might have been considered as well what was fit as what was right; without farther delay, than what was necessary for the fair Writing, and Ingrossing the Instrument they had prepared, they all set their Hands to it. Then the Archbishop went to *Whitehall* to the King, and presented the Protestation to him, it being directed to his Majesty with an humble Desire, that he would send it to the House of Peers, since they could not present it themselves; And that he would command, that it should be entered in the Journal of the House. His Majesty casting his Eye perfunctorily upon it, and believing it had been drawn by mature Advice, no sooner received it than he delivered it to the Lord Keeper, who unfortunately happened to be likewise present, with his Command that he should deliver it to the House as soon as it met. And the Protest being delivered accordingly, the Lords immediately sent it down to the Commons, who thereupon charged the Bishops with High Treason. And they were all twelve committed to the *Tower*, and remained there till the Bill for excluding them from the House of Lords passed, which was many Months after.

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Proceedings

Proceedings against LAURENCE Lord ESMOND, Lord Esmond, Crosby, &c.
Sir PIERCE CROSBY, Bart. MARCUS CHE-
VERS, and others, for a Conspiracy and Scandal
of the Earl of Strafford, Lord Deputy of Ireland.
Anno 1639. 15 CAR. I.

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The Charge
against them.

MR Attorney General preferred an Information against the Defendants in the Star-Chamber, setting forth that the said Sir Pierce Crosby, had confederated and conspired with the rest of the Defendants, to take away the Reputation of the Lord Deputy Strafford, by charging him with being the Death of one Esmond, a sick and infirm Man, by giving him divers Strokes with a Cane; and getting the Wife of the deceased into their Confederacy, telling her such Complaints would be well received in England, and offering her 1000 l. to come over and give Evidence against the Deputy; And the Information farther charges the Defendants with publishing and divulging the said scandalous Report.

To which the Defendants pleaded *Not Guilty*, and yet proceeded to justify themselves, which was contrary to all Rules of Law after *Not Guilty* pleaded: However the Court thought fit to indulge the Defendants thus far, that the Lord Deputy might have an Opportunity of vindicating his Reputation.

Then the Depositions of the Defendants Witnesses were read, whereby they endeavoured to justify the Report of the Lord Deputy's beating the deceased Robert Esmond: And first the Deposition of William Atkins, the Jaylor, was read; who deposed, That about November, or December, 1634, Robert Esmond was brought before the Lord Deputy, who committed him to Dublin Castle: That he Atkins was present when Esmond was convented, and the Lord Deputy was angry with him, and said *Sirrah, Sirrah*, and struck Esmond on the Head and Shoulders three or four Strokes with a Cane, and then committed him.

Immediately after Robert Esmond's

Death, he (the Deponent) heard Richard Roach, and divers others report, that the said Strokes occasioned it: That he did daily visit Robert Esmond, and he complained of the Blows, and that this Deponent's Wife anointed his Shoulders: That Esmond the deceased, often wept and grieved, and would often say, *His Heart was broken*.

Richard Roach deposed, That Robert Esmond was in Prison about six Days and a half, daily complained and refused his ordinary Food. That William Holloway saw the Lord Deputy strike three or four Strokes over the Pate of the deceased with a Cane; And that being a Prisoner in Dublin Castle in November or December 1634, Robert Esmond, told him, That he had been convented before the Lord Deputy and committed by reason that after his Bark was laden for the Lord Chief Justice, he refused to take in the Lord Deputy's Timber, which he could not have taken in respect of the Length: That Esmond farther said to this Deponent, That the Lord Deputy had made him Knight of the Cane, and complained of the Strokes the Lord Deputy had given him, and wished them to feel what Swellings he had in the hinder part of his Head; And this Deponent felt several Knots and Swellings by his Ears: That from his Commitment to his Death he did more and more languish, and at his going out of the Castle he shook his Head towards it, and said, *He might thank the Lord Deputy for that*.

William Esmond deposed, 'That in July, 11 Car. I. Sir Pierce Crosby and Lord Mountnorris were at Wexford, and then and there Sir Pierce did speak of such Reports as are before deposed; and said that it was no Crime.

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On the other hand, Mr Attorney General, in opening the Evidence on the part of the Lord Deputy observed, That Sir *Pierce Crosby* was the Forger of the Accusation; And that it would be proved *Esmond* died of other Wounds; And that no Blow was given him by the Lord Deputy. And first the Deposition of *Margery Turner* was read, who averred, 'That *Robert Esmond* her late Husband, long before his Death, was wounded in his Back with a small Knife by one *Egerton*; And that the said *Esmond* after the Wound, spitted Blood for about a year before he died; And that he had also a Cough of the Lungs about seven years, and died of a Consumption.

Laurence Lord Esmond being examined, saith, 'That *Robert Esmond* six or seven Years before his Death received a Wound in his Back with a Knife by one *Egerton*; and that he and other of his Friends conceived the said Wound to be the Cause of his Death.

Walter Fitz-Harris deposed, 'That he told *Margery*, to go into *England*, to take Part against the Lord Deputy; And that he promised her, that Sir *Pierce Crosby* should give her 1000*l.* to go and make Complaint of the Death of her Husband; And told her, that he was sent for that Purpose into *Ireland* by Sir *Pierce Crosby*; And she seemed willing to come into *England*.

Richard Roach deposed, 'That he repaired to *Robert* in his Sickness, and asked him, whether he had any Stroke from the Lord Deputy, and he said, that he had received no Stroke from the Lord Deputy upon his Salvation: He also said that *Margery Turner* came to his Lodging, and complained of the Loss of her Husband; and said she had been sent for by a Messenger, which said he came from my Lord *Mountnorris*, Sir *Pierce Crosby* and *Marcus Chevers* to come and speak with them: And the Examinant conceived they sent for her to persuade her to go into *England* to complain.

Sir *Philip Manwaring* saith, 'He was present when the deceased *Esmond* was brought to the Lord Deputy; And that he was charged with Contempt, in refusing to take aboard the King's Timber and taking in other Timber; the Lord Deputy shook his Cane at *Esmond*, and said he would teach him better Manners; but whether he touched him or not he cannot depose.

Sir *Philip Manwaring* farther said, 'That the Lord *Esmond*, Lord *Mountnorris* and Sir *Pierce Crosby* were of the Privy Council in *Ireland*, and Sir *Pierce Crosby* renewed about the end of last Parliament the Oath of a Privy Councillor.

Joshua Carpenter deposed, 'That about November 1634, the deceased *Esmond* was pressed to carry Timber, and refused it, saying, he had undertaken to carry Timber for the use of the Lord Chief Justice; That the Lord Deputy shook his Cane; but whether he touched him with it or not he knows not; but the Lord Deputy committed *Esmond* for neglect of the King's Service.

Jeremy Woodworth saith, 'That *Esmond* was troubled with a violent Cough, but went quickly over; And when he visited him in Prison, he heard him not complain of any Blow, though he asked him if the Lord Deputy did strike him; But *Esmond* answered, he did not, but only shook a Cane over his Shoulders, but he felt no Harm; That he would not have hidden it if he had beaten him. That *Chevers* said that Day that *Esmond* died; Did not I tell you he would die of the Strokes the Lord Deputy gave him?

Sir *Francis Worthly* saith, that Sir *Pierce Crosby* said, 'That the Lord Deputy had an hard Heart in *Ireland*; he struck *Esmond* and committed him to Prison; and two or three Days after he died; and on his Death-Bed said, he died of the Blows given him by the Lord Deputy.

The Evidence being closed, the Lords proceeded to sentence the Defendants on the 22d of May, 15 Car. 1639; and first the Lord *Cottington*, from whose Speech Mr *Rushworth* has given the following Passages.

'That there lay a Necessity upon the Lord Deputy to bring the Cause to a Hearing, else he had not done right to his own Honour and the King's Service; nor to his Posterity; and he had great Reason to expect Satisfaction from the Court: That he blames not all the Council at the Bar, who pleaded for the Defendants, but blames him that made Defence in way of Justification of the Scandal, after *Not Guilty* pleaded; And leaves it to the Court whether it be not fit to repair the Lord Deputy for such a Defence, considering the Deputy's great Merit to the King, the State and their Lordships; being one who hath done so good, so just and so honourable Services

Lord Cottington's Speech at the Sentence.

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' Services, not to be paralleled by any that
' went before him in that Place.

' His equal Distribution of Justice,
' advancing his Majesty's Revenue, &c.
' so that *Ireland* was never in that State
' as now it is: And that this noble
' Lord should have these Reflections cast
' upon him by Sir *Pierce Crosby*, is an ill
' Reward.

' I am well satisfied, added the Lord
' *Cottington*, that Sir *Pierce Crosby* en-
' deavoured to draw this scandalous Ac-
' cusation upon this Lord, and hath been
' a Publisher of it particularly to Sir
' *Francis Wortley*: And how ridiculous
' a thing it was (the Proofs considered)
' to say that *Esmond* died of the Blows
' the Lord Deputy gave him, when
' only he shaked his Cane over his Head?

' I hold my Lord *Esmond* also guilty
' of spreading this Report. *Fitz-Harris*
' tells how he was hired to go into *Ireland*
' on Sir *Pierce Crosby*'s Account: It is
' said he is a Man indicted of Felony;
' why did Sir *Pierce Crosby* make use of
' such a Fellow?

' I fine Sir *Pierce Crosby* 4000*l.* to the
' King; and to give such Satisfaction to
' the Lord Deputy as this Court shall
' direct. I am sorry for Sir *Pierce Cros-*
' *by*; for time was when he did good
' Service at the Isle of *Rhee* for his King
' and Country.

' As for the Lord *Esmond*, I hold him
' clearly guilty of spreading this Scandal
' to the Dishonour of my Lord Deputy.
' My Lord *Mountnorris* said, he had it
' from the Lord *Esmond*: Now for Men
' of Honour to report a thing false for
' a Truth, is a very great Crime. I fine
' my Lord *Esmond* 3000*l.* and I do de-
' clare him to be unworthy to serve un-
' der the General (my Lord Deputy) and
' to make Satisfaction in some publick
' way, and in such Words as this Court
' shall direct.

' As for *Marcus Chevers*, the Beginner
' of this Report, I sentence him for pub-
' lishing of it 1000*l.* and to acknowledge
' his Offence.

' And all the Defendants in 5000*l.* Da-
' mages to the Lord Deputy.

*The Speech of the Lord Chief Justice Finch
on passing Sentence*

' My Lords, the Charge in this Infor-
' mation is double: It is a Conspiracy
' to raise a Scandal to bring my Lord De-
' puty in question, both in his Honour

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' Life and Fortune: And it is for the
' publishing and divulging of this, to the
' Dishonour of my Lord Deputy; and to
' stir up ill Consequences likewise to his
' great Damage.

' That there was a Scandal raised I am
' fully satisfied; but who are the first
' Raisers of this Scandal, that in Judg-
' ment doth not appear before your Lord-
' ships: But my Lord Deputy hath very
' good reason to charge this as a Conspira-
' cy and Practice in the Defendants; And
' I think your Lordships have great Rea-
' son to suspect it strongly; and in my
' own private Conscience I do believe it.
' But I dare not, upon the Proof in Court,
' go so far as to sentence any of the De-
' fendants: Not Sir *Pierce Crosby*, whom
' I hold to be the chief Delinquent in
' the Cause; I dare not I say, upon the
' Proof in Court condemn any of them of
' a Conspiracy, or of a Practice with o-
' thers, to raise this Scandal *ab origine*, to
' bring my Lord Deputy in Danger of his
' Life.

' For the publishing of the Scandal, I
' am satisfied that it was a false Report,
' and that it is a Crime that ought severely
' to be sentenced in this Court.

' There are Precedents of it in my
' Lord Archbishop of *York*'s Case, that
' now is, and the Bishop of *Lincoln* and
' *Osbaldston*'s Case. And your Lordships
' know the Statute of R. 2. & *Westm.*
' 1. doth as well punish those that are the
' Tellers and the Speakers of false Lies
' and Tales, as the Inventors.

' In the Case of a common Person there
' may be sufficient Reason to justify the
' Words, but in the Case of a publick
' Magistrate, and so great a Person as the
' Vice-roy in a manner of the Kingdom
' of *Ireland*, I say, tho' there were pro-
' bable and just Grounds, it was not fit
' for them to scatter and divulge things
' in an irregular way, but it is punishable.
' I did learn it in King *James*'s Time,
' in the Case of *Henry Earl of Northamp-*
' *ton* Lord Privy Seal, that was here sen-
' tenced.

' I am clearly satisfied, that this is so
' far from being true, or from a Probabi-
' lity of Truth, or from being a *non liquet*,
' that there is no colour for it: And to
' satisfy my own Conscience, I shall be
' bold to reckon to your Lordships the
' Grounds upon which I go.

' I do fix it upon the Testimony of
' the Parties present, and of the Witnesses
' present; I do find there were fifteen pre-
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sent. For Sir *Phillip Manwaring*, your Lordships know his Quality and Reputation in the Kingdom; and I know he beareth it as worthily in your Lordships Judgment: He expressly sweareth his Lordship did but shake the Cane, and that he believeth in his Conscience (for so he said here in Court) he did not so much as touch him: And I would not have any to go away unsatisfied of any thing against my Lord Deputy. There are many Precedents and Rules, that this Court hath Liberty in their Judgments to call for Witnesses at hearing, to satisfy their Consciences. My Lords, besides Sir *Philip Manwaring's* Deposition, that which he did here affirm, That he was near to my Lord all the while, and that he did diligently observe all that passed.

Another Witness was *Isaac Carpenter*; he doth agree with Sir *Philip*; he saith, my Lord did but shake the Cane, and he doth not know whether he touched him; and he was the Man that brought the Fellow thither.

The third Witness was *Holloway*: It is true some speak out of his Mouth; he speaketh exactly in his Answer; he knoweth of no Hurt or Wrong was done by my Lord Deputy, neither doth he believe it.

Atkinson the Jailor he was the only single Man of those that were present that saith, my Lord Deputy did strike *Robert Esmond* with a Cane.

Take the Quality of their Persons, take their Number four to one, I wonder whether any Man can think there was a Stroke.

The second part of the Proof is from the Relation of *Robert Esmond* himself, wherein you shall see a great deal of Malice in the Defendants.

Yet he sweareth upon his Salvation, he took no hurt by any Stroke from my Lord Deputy: He did declare it was an old Hurt with a Knife that did wound him; he did there protest, he never struck him, only shook his Cane. And when his Uncle said unto him; Tell the Truth: Indeed Uncle, said he, if it were otherwise I would tell you; I pray God I never enter into Heaven, if ever he struck me or hurt me: So here is as strong a Relation as can be, and agreeth in the point with the shaking of the Cane.

I shall not forget to reckon up to your Lordships what on the Defendants part

hath been alledged. It was a grave and honourable Admonition which was given by my Lord *Cottingham* to the Council at the Bar; and I wish they would never give Occasion to be apprehended, but to take Admonition by this. Time hath been, when Practisers of Law knew their Duty, which if they observed, they should never do more than their Cause would bear; and yet do their Duty to their Clients with Modesty to the Court, and Respect to Persons of great Eminence. In this they have gone farther than the Course of the Court, wherein I do commend Mr. Attorney, that did so respect the Innocency of my Lord Deputy, that he would not cut them off. It hath not been usual with the Practice of this Court, to suffer him that pleads *Not Guilty*, to make a Justification for the Plaintiff to prove him guilty; and it shall ever be my Practice in such Cases, when they do fail of a Proof of *Not Guilty*, that they shall pay sound Damages.

For my Lord's Merit I shall say nothing, I am prevented by my Lord *Cottingham*. If ever any deserved Reparation in this Court, my Lord Deputy doth, who hath been so excellent a Minister for the King.

For Sir *Pierce Crosby*, I shall observe to your Lordships, he was a discontented Man, removed from the Council-Table by my Lord Deputy and the Council, and by direction from the King. He said my Lord Deputy bore a hard Hand in *Ireland*, and wished my Lord Deputy was displaced, and my Lord *Falkland* in it again. I have known Sir *Pierce* long, and sorry I am to meet him here.

The first Witness against him was Sir *Francis Wortley*, who saith, he told him my Lord Deputy struck *Esmond*, and that he died of the Blows; and did name some Persons in *Ireland*, that would prosecute against my Lord Deputy.

The second Witness was *Edwards*: Sir *Pierce Crosby* asked him if he had not a Kinsman that died of a Blow given him by the Lord Deputy of *Ireland*. It did not concern Sir *Pierce Crosby* at all to enquire.

Your Lordships remember what *William Esmond* said; then what Sir *Thomas Esmond* said, the Lord Deputy struck him: And *Marcus Chevers* asked if he had heard of any such thing. I tell

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' tell your Lordships why I reckon up these Defendants, because of the Knowledge I have of Sir *Pierce Crosby*; and I am sorry that he should upon his Oath deny he ever spoke any such Word, when so many do witness against him for it; therefore Sir *Pierce Crosby's* Oath must not move me in Judgment; for no hold is to be taken of it. And let Men take heed how they take a Liberty to deny upon their Oath; for your Lordships know how many Precedents have been in this Court for sentencing Men for Perjury in their own Cause.

' For *Fitz-Harris*, he is a Witness that doth accuse himself; as for the Indictments against him, he stood upright, when he was examined; and in these things wherein he concurs with others, he is without Exception; and being a single Testimony in the main point for the Conspiracy, is the reason why I cannot sentence Sir *Pierce Crosby* for a Conspiracy: And I am not on the other side so satisfied, but that in my own Conscience I do think there was a Conspiracy. Why should *Fitz-Harris* also go about this? and why should *Archer* make this Relation? and why this Conference with *Robert Esmond's* Wife, and her Council (though I will not say but one Defendant may confer with another)? I do utterly dislike the manner of it; and so I shall leave Sir *Pierce Crosby*.

' The next is my Lord *Esmond*, a Person unknown to me, yet I am sorry to find him here; but I must agree with my Lord that went before me, and to sentence him for the Reasons already opened. My Lord Deputy should know it was an *Esmond* he had killed; tho' he was the Man that brought my Lord Deputy Word, that *Robert Esmond* said upon his Salvation he took no Hurt by any Stroke from my Lord Deputy. This Lord being a Counsellor of State, to go and do otherwise, doth aggravate his Offence. Nothing is more for my Lord Deputy's Honour than this very particular: With what Clearness and Candour my Lord Deputy did proceed in putting so much Trust in my Lord *Esmond*, is a thing that standeth so deeply in his Honour and Fortune; and might be a Cloud that might hang over him all the Days of his Life.

' Next was *Chevers*; he said, *It was no wonder if he died of it, &c.*

(Here my Lord *Finch* spoke of a Report which he had seen, 4 Car. where my Lord *Say* brought an Action of the Case upon the Statute of *Scandalum Magnatum*, for saying, *Thou art a Traitor to the King*; and upon a *Not Guilty* pleaded, it was found for the King: But the Inference he drew from this, the Author *Mr Rushworth* could not perfectly take.)

' For *Holloway* and *Fitz-Harris* there is enough to convince them.

' I shall descend to my Sentence, and will not dissent in any thing from my Lord *Cottington*, only have *Archer's* and *Fitz-Harris's* Ears nailed to the Pillory, and fined 1000*l.* a-piece.

The Lord Keeper's Speech.

' Mr Attorney hath proceeded with a great deal of Judgment: He did a very good Act for my Lord Deputy, to bring this Cause to Sentence; and for the way of Defence, I am clearly satisfied it is against the Rules of the Court; yet had they been interrupted in the way of their Defence, it would have reflected both upon my Lord Deputy and the Court; Therefore, as I do condemn this way of Defence to the Court, (and by the way do advise them to take care and heed how they do practice it in other Causes) yet I do commend it as necessary in this Case for Mr Attorney to give way unto their method of pleading.

' My Lords, in the next place I must needs say, upon the whole Course of this Cause, I am of the same Opinion with my Lord *Cottington*, that howsoever perchance this or that Man may think my Lord Deputy should have done well to have forborn this Cause, yet certainly it was a great necessity for my Lord Deputy to bring it on. It was necessary for him in the point of his Honour; for I am very confident, that had he not taken that way, this Rumour and Calumny had spread so far, that of necessity it would have required him at last for his Safety to do this; Because for *Atkins* and *Roche*, I am satisfied in my Conscience, by the Proof of the other side, that they are false Witnesses; and therefore it might have concerned my Lord Deputy, as in his Honour, so in his Life and Estate.

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'It was a point of Moderation that he did not put in my Lord *Esmond* first; I once had a good Opinion of him; but when my Lord *Esmond* (whom my Lord Deputy entrusted to examine this business) did discover himself, he had great reason to bring him on the Stage.

'My Lords, there was one thing out of the Proofs concerning *Marcus Chevers* to be of Council with Sir *Pierce Crosby* in a Cross-Bill, to let your Lordships know something of what I know: It is true Sir *Pierce* came unto me, and desired me to write a Letter to my Lord Deputy to come and appear to his Suit in the Star-Chamber here; But the Truth was, I did deny it, because I thought it could not stand with my Duty to send to my Lord Deputy a Letter to appear here, before I told the King of it: So there was some Intention of a Cross-Bill, but I never acquainted the King with it, nor heard more from Sir *Pierce* of it.

'My Lords, in the next place I shall declare my Opinion, as most of your Lordships have done.

'First, I am satisfied in my Conscience my Lord Deputy did not strike him, only it was a Shaking of the Cane that maketh the very Ground-work to be false. It was objected, if it did but hasten his Death an Hour, it was the Occasion of his Death. I do not conceive it did either hasten it, or occasion it; and I believe nothing that *Atkins* saith.

'Next place for the Statute in this point, here is the spreading of a scandalous Rumour to the Prejudice of a Nobleman; this is a very great and grievous Crime. Then, my Lords, in this Case I look upon the Person of my Lord Deputy, as he is a Privy Counsellor to the King, as well in this Kingdom as in *Ireland*. He is a Peer of this Kingdom; yea a great Officer both in *England* and *Ireland*; Lord President of the North in *England*, and Lord Deputy of *Ireland* in *Ireland*: He is trusted by the King immediately under himself; though it be granted unto him by the Name of the Lord Deputy, yet he hath both the Honour and Power of a Vice-roy.

'Now my Lords, I do observe in the Evidence of this Cause, that all the rest of the Privy-Counsellors have a special Article in their Oaths, not to discover

'any thing that may reflect upon the Lord Deputy.

'Next Thing, if a Rumour of a Report be divulged, and a Man doth hear this commonly spoken, and he reports it, whether this shall be a Crime in this Man? And I make no Doubt of this but it is, for it is full within the matter of the Act. If this shall be an excuse to say, I spoke no more than what I heard, and heard it from this or that Man, the Consequence would be, that none possibly would be safe. Plainly, the Law of the Kingdom meaneth it to the meanest Subject in it; as to say to the poorest Man that he meeteth in the Streets, that it is reported that he hath committed Murder, &c. What shall he say I did say no more than what was told me? This is no Defence for the meanest Subject the King hath, much less in this case of so great a Minister of State. If one call another Thief, or Murderer, and he bring an Action, and if it be true he be guilty of the Fact, no Action will lie. But in Cases of *Scandalum Magnatum* it is otherwise. I find a Resolution in this Point of this Court, by the two Lord Chief Justices. *Arundel's Case*, That a Man hearing a Scandal of a Nobleman, and shall report this to another although he doth express his Author, yet he shall be punishable. If a Man of Quality shall say of one, that he is a Traitor, Felon, &c. or any scandalous Speeches, and say that he hath heard it from such a Man, this is no Justification; For when it cometh out of a more discreet Man's Mouth, the Scandal increaseth; for any Man to say he heard it, and name the Man of whom he heard it, he shall never justify it in an Action of the Case.

'*Object.* But here you may say is a Probability, and so it may be left with a *non liquet*.

'*Answer.* But I conceive there is no manner of Probability, much less a *non liquet*.

26 Junii, 15 Carol. Regis, 1639.

'*Laurence Lord Esmond* and Sir *Pierce Crosby*, Knight and Baronet, this Day appeared at the Bar in Obedience to the Sentence of the Court, and made their several Acknowledgments, according as the Court had directed, being penned by the Judges. The like Acknowledgment did *Marcus Chevers* make at the Bar.

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Article
Impeachment
him.

1639.
15 Car. I.

From this Relation of Mr Rushworth's, I am enclined to think, the Lord Deputy generously forgave the several Sums the

Defendants were adjudged to pay him, and accepted of an Acknowledgment of their Offences and Submission in Court.

1639.
15 Car. I.

Proceedings against Dr JOHN COZENS, for promoting Innovations in Religion. Anno. 1640.
16 CAR. I.

Dr Cozens;

1640.
16 Car. I.

AT the Parliament which met November 3, 1640, the Petition of Peter Smart, Prisoner in the King's-Bench, was read; complaining of Dr Cozens's Innovations in Matters of Religion in the Church of *Durham*, and of his Persecution of the said Mr Smart in the High-Commission Court at *York*, where he was sentenced and deprived of his Living and Prebendary of *Durham*: Whereupon it was ordered, That Peter Smart's Petition be referred to the Committee appointed to consider of Dr Leighton's Petition, who are to consider, by whose Motions and Means Dr Cozens was preferred to his late Dignity. And this Committee is impowered farther to consider, whether any Man complained of here, being a Convocation Man, may not by Authority of this House, be sent for by the Serjeant at Arms.

It was likewise farther ordered, That Mr Smart, in all Particulars, shall have the same Liberty as Dr Leighton hath granted unto him, and that he may have Copies of the Records in the King's-Bench and the High-Commission concerning his Business, gratis.

Dr Cozens being brought to the Lords Bar as a Delinquent, was admitted to Bail, upon entering into a Bond of two thousand Pounds, and his Sureties one thousand Pounds a piece for his Appearance; and on the 15th of March Mr Rouse carried up Articles of Impeachment against him of the following Tenour, viz.

Articles of Impeachment against him.

I. That he was the first Man that caused the Communion-Table in the Church of *Durham* to be removed and set Alter-wise; in the erecting and beautifying whereof, he (being then Treasurer) expended two thousand Pounds.

II. That he used to officiate at the West Side thereof, turning his Back to the People.

III. That he used extraordinary Bow-ing to it.

IV. That he compelled others to do it, using Violence to the Persons of them that refused so to do: For instance, once some omitting it, he comes out of his Seat, down to the Seat where they sat, being Gentlewomen, called them *Whores* and *Jades* and *Pagans*, and the like unseemly Words, and rent some of their Cloaths.

V. That he converted divers Prayers in the Book of Common-Prayer into Hymns, to be sung in the Choir, and played with the Organ contrary to the ancient Custom of that Church.

VI. That whereas it had been formerly a Custom in that Church, at the End of every Sermon to sing a Psalm, this Custom, when Dr Cozens came thither, was abrogated; and instead thereof they sung an Anthem in the Choir, there being no Psalm sung either at the Minister's going up into the Pulpit, or at his coming down.

VII. That the first Candlemas Day at Night that he had been in that Church, he caused three hundred Wax Candles to be set up and lighted in the Church at once, in Honour of our Lady; and placed three score of them upon and about the Altar.

VIII. That in this Church there were Reliques of divers Images, above which, were remaining the Ruins of two Seraphims, with the Picture of *Christ* between them, erected in Queen *Mary's* Time, in the Time of Popery: All which, when Queen *Elizabeth* came to the Crown were demolished, by Virtue of a Commission by her to that Intent granted; which so continued demolished from that Time, till Dr Cozens came to that Church, who, being Treasurer, caused the same to be repaired and most gloriously painted.

1640.
16 Car. I.

Cccc

IX. That

1640.
16 Car. I.

IX. That all the time that he was unmarried, he wore a Cope of white Sattin, never officiating in any other, it being reserved solely for him, no Man except himself making use thereof; which after Marriage he cast off, and never after wore.

X. That there was a Knife belonging to the Church kept altogether in the Vestry, being put to none but holy Uses, as cutting the Bread in the Sacrament, and the like Dr Cozens refusing to cut the same with any other but that, thinking all others that were unconsecrated, polluted; but that which he putting Holiness in, never termed but the consecrated Knife.

XI. That in a Sermon preached in that Church, he did deliver certain Words in Disgrace of the Reformers of our Church: For instance, the Words were these: *The Reformers of this Church, when they abolished the Mass, took away all good Order, and instead of a Reformation, made it a Deformation.*

XII. That he seldom or never, in any of his Sermons, stiled the Ministers of the Word and Sacrament by any other Name than Priests; nor the Communion-Table by any other Name than Altar.

XIII. That by his Appointment there was a Cope bought, the Seller being a convicted Jesuit, and afterwards employed in that Church, having upon it the Picture of the invisible and incomprehensible Trinity.

XIV. That whereas it had been formerly a Custom in that Church, at five of the Clock to have Morning Prayers read Winter and Summer; this Custom, when Dr Cozens came thither, was abandoned, and instead thereof, was used Singing and playing upon Organs, and some few Prayers read, and this was called the first Service; which being ended, the People departed out of the Church, returning at nine o'Clock, and having then Morning Prayers read unto them, and this was called second Service: Which Innovation being disliked and complained of by Mr Justice Hutton, was reformed.

XV. That he framed a superstitious Ceremony, in lighting the Tapers which were placed on the Altar, which for Instance was this: A Company of Boys that belonged to the Church came in at the Choir-Door with Torches in their Hands lighted, bowing towards the Altar at their first Entrance, bowing thrice before they lighted their Tapers; having done, they withdrew themselves, bowing as oft as

before; not once turning their Back-parts towards the Altar, the Organs all the time going.

XVI. That he counselled some young Students of the University to be Imitators and Practisers of his superstitious Ceremonies; who to ingratiate themselves into his Favour, did accordingly: And being afterwards reproved for the same by some of their Friends, confessed that Dr Cozens first induced them to that Practice, and encouraged them therein.

XVII. That he used, upon Communion Days, to make the Sign of the Cross with his Finger, both upon the Seats whereon they were to sit, and the Cushions to kneel upon, using some Words when he so did.

XVIII. That one Sabbath Day there was set up an unnecessary Company of Tapers and Lights in the Church, which Dr Hunt (being then Dean) fearing they might give Offence, being they were unnecessary, sent his Man to pull them down; who did so: But Dr Cozens being thereat aggrieved, came to the Fellow, and there miscalled him in a most uncivil Manner, and began to beat him in the publick View of the Congregation, to the great Disturbance of the same.

XIX. That the Dean and Chapter of that Church, where Dr Cozens was one with many others, being invited to Dinner in the Town of Durham, Dr Cozens then and there spake Words derogating from the King's Prerogative. The Words were these, *The King hath no more Power over the Church, than the Boy that rubs my Horse's Heels.*

XX. That there being many Canons of the said Church present at that time, amongst the rest, there was one took more Notice of his Words than the rest, and acquainted one of his Fellow-Canons with them when he came home. This Canon being a Friend of Dr Cozens, told the Doctor that such a Man exclaimed of him, and charged him with Words that he should speak at such a time: The Doctor presently sends for him, and when he came into the House, the Doctor desires him to follow him into an Inner-Room; who did so: But as soon as he came in, the Doctor shuts the Door, and sets both his Hands upon him, calling him Rogue and Rascal, and many other Names: Insomuch that the Man fearing he would do him Mischief, cryed out. Mrs Cozens coming in, endeavoured to appease her Husband, and holding his Hands, the other run away.

XXI. That

1640.
16 Car. I.

XXI. That the Doctor did seek many unjust Ways to ensnare this Man, that so he might take a just Occasion to put him out of his Place: But none of them taking Effect, he put him out by Violence, having no other Reason why he did so, but because he had no good Voice, when he had served the Place two Years before Dr *Cozens* came thither: For Instance of which unjust Ways to ensnare this Man, Dr *Cozens* hired a Man and Woman to pretend a Desire of Matrimony, and to offer a Sum of Money to this Petty-Canon to contract Matrimony between them in a private Chamber, so thereupon to take Advantage of his Revenge upon him. (But I do not find that ever this Cause came to a Hearing.)

Dr *Cozens*'s
Character.

Dr *John Cozens* had his Education in *Cain's College* in *Cambridge*; and was afterwards Master of *Peter-House Col-*

lege in the same University, and soon after Dean of *Peterborough*. Being a very strict Church-man, and eminently loyal to the late King, he was charged with Popery, and suffered all the Extremities of Plunder and Sequestrations; and during the Time of Usurpation he retired into *France*, where he declined joyning in Communion with the *French* Protestants: But yet by his exemplary Life, constant preaching and learned Disputes, he gained over several Papists to the Church of *England*. At the Restoration, in Consideration of his Sufferings, and his Worth and Learning, he was advanced to the rich See of *Durham*, the Riches of which he the more deserved, because of his munificent Benefactions, and his leaving a great Part of his Estate to pious and publick Uses.

1640.
16 Car. I.

Proceedings against the Bishops and Clergy. Anno. 1640, Bishops, &c.
1641. 16, 17 CAR. I.

1640,
1641.

17 C. I.

Petition
against them.

THE first Charge we meet with against the Bishops, is contained in twenty eight Articles, annexed to a Petition presented to the House of Commons in the Name of his Majesty's Subjects in and about the City of *London*, Requiring, that the Episcopal Government, with all it's Dependances, ROOTS and BRANCHES, might be abolished; which was presented to the House by Alderman *Pennington*, attended by a Rabble of several hundred Apprentices and inferiour People, on the 11th of *December*, 1640, subscribed by fifteen thousand Men Inhabitants of the City of *London*, as it was said by the Favourers of the Petition.

The Substance of this Charge was,

Articles of
Charge.

I. That the Bishops subjected the inferiour Clergy to their Authority, and exempted them from the temporal Power.

II. That the Clergy fearing the Displeasure of the Prelates, were afraid to preach the Truths of God, viz. Predestination, Free Grace, Perseverance, Original Sin, Election, &c.

III. The third is comprehended in the first.

IV. That the Bishops turned out many godly and powerful Preachers, because they would not submit to their Devices, and sometimes purely for their Zeal in Preaching.

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16, 17 C. I.

V. That they suppressed that godly Design of certain Saints, for purchasing Improvements to maintain able Preachers and Lecturers.

VI. That they encouraged leud and ignorant Ministers, provided they would wear a Surplice or Hood, bow at the Name of *Jesus*, &c.

VII. The seventh observes the great Corruptions in the Universities, and the gross Ignorance of the People, for Want of preaching Ministers.

VIII and IX. Charges the Bishops with licensing lascivious idle Books, Plays and Ballads, particularly *Ovid's Art of Love*, *The Parliament of Women*, &c. and preventing the publishing of godly Books against Arminianism and Popery.

X and XI. Charges them with encouraging Arminianism and Popery.

XII. Charges them with countenancing Monopolies, high Duties and Ship-Money.

XIII. Charges

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XIII. Charges them with maintaining the Church of *Rome* to be a true Church, and not praying for the Conversion of the Queen.

XIV. Charges them with using Popish Ceremonies, and wearing Popish Garments, such as Rochets, Laun Sleeves, four cornered Caps, Surplices and Tippets, and cloathing their Pulpits.

XV. That they stand up at the *Gloria patri* and reading the Gospels, pray towards the *East*, bow at the Name of *Jesus* to the Altar and the *East*, use the Cross in Baptism, and kneel at the Communion.

XVI. That they set the Communion-Table Altar-wise; set Images, Crucifixes and Conceits over them; Tapers and Books upon them, and bow before them; read the second Service at the Altar, force People to receive the Sacrament there, calling the Altar *The Mercy Seat*, &c.

XVII. That they consecrated Churches and Chapples, Fonts, Tables, Pulpits, Chalices and Church-Yards.

XVIII. They complain that the Liturgy is, for the most Part, taken out of the Mass-Book.

XIX. They complain of the Multitude of Canons, and that they authorize Excommunication *ipso facto*, for speaking against the above-said Devices: That they require Subscriptions thereto, and particularly they complain of the Canons made in the late Convocation, which they say undermine the Gospel and the Subjects Liberties, and propagate Popery.

XX. That they countenance Pluralities, prohibit Marriages at certain Times without License, and license Marriages without Banes.

XXI. That they encourage the Prophanation of the *Lord's Day*, and deprive godly Ministers for not reading the Book of Sports.

XXII. That they required the Observation of Saints Days.

XXIII. That they encouraged Whoredom by their Commutations for Penance.

XXIV. That Men were excommunicated for trivial Matters.

XXV. That they asserted their Offices and Jurisdiction were *jure Divino*, and exercised ecclesiastical Authority in their own Names and under their own Seals; and took upon them temporal Dignities, Places and Offices, swaying both Swords.

XXVI. That they determined Matters cognizable at Common-Law, in their

Courts, and put Ministers upon Parishes without the Patrons or People's Consents.

XXVII. That they imposed Oaths upon Church-Wardens, which they could not take without Perjury.

XXVIII. They complain of their administering the Oath *ex Officio*, and proceeding, by way of Inquisition, to discover Mens Thoughts; of their apprehending People by their Pursuivants, suspending and depriving Ministers, fining and imprisoning all sorts of People, seizing their Books and Papers, rejecting the Prohibitions of the Courts of Law, and intimidating the Judges; so that no Prohibition or *Habeas Corpus* could be obtained: And affirm, that only Papists, and such as propagated Popery or Arminianism, were countenanced or spared.

Such an unaccountable Charge, presented by a London Mob, would not have deserved Notice, if it had not been received and countenanced by the House of Commons, and been the Occasion of many Alterations in the Ecclesiastical Government, and at length of the total Extirpation of it.

Upon the reading this Petition it was resolved, That it should be debated on the *Thursday* following, and that the Members of the House might have Copies of it, but none else.

The Debate however was put off 'till *Munday* the 8th of *February*; on which Day and the next, were many warm Speeches made relating to the Ecclesiastical Constitution; some were for the Reformation of Bishops, others for abolishing the whole Order, and most of them for depriving them of their Peerage, excluding them from temporal Affairs, and restraining them from the Jurisdiction of their Courts. And some short time afterwards, it was voted, That no Bishop should have any Vote in Parliament, or any judicial Power in the Star-Chamber, or bear any Sway in Temporal Affairs; And that no Clergyman whatever should be in the Commission of the Peace: And a Bill of the same Tenour having past the House, was sent up to the Lords, but rejected there at this time.

About the same time, it was resolved by the Commons *nemine Contradicente*, That the Clergy of *England* convened in a Convocation or Synod, or otherwise, have no Power to make any Constitutions, Canons or Acts whatsoever, in Matter of Doctrine, Discipline or otherwise, to bind the Clergy or the Laity of the Land, without

1640, 1641. without common Consent in Parlia-
16, 17 C. I. ment.

*Resolved upon the Question, Nemine Con-
tradicante.*

That the Canons and Constitutions Ecclesiastical, treated upon by the Archbishop of *Canterbury* and *York*, Presidents of the Convocations for the respective Provinces of *Canterbury* and *York*, and the rest of the Bishops and Clergy of these Provinces, and agreed upon by the King's Majesty's License in their several Synods, began at *London* and *York* in the Year 1640, do contain in them Matters contrary to the King's Prerogative, to the fundamental Laws and Statutes of the Realm, to the Rights of Parliament, to the Property and Liberty of the Subjects, and Matters tending to Sedition, and of dangerous Consequence.

*Resolved on the Question, Nemine Con-
tradicante.*

That the several Grants of the Benevolence or Contribution granted to his most excellent Majesty by the Clergy of the Provinces of *Canterbury* and *York*, in the several Convocations or Synods holden at *London* and *York*, Anno Dom. 1640, are contrary to the Laws, and ought not to bind the Clergy.

In April following, a Bill was brought into the House of Commons, read a second time and committed, for punishing and fining the Members of the late Convocation of the Province of *Canterbury*, and the following Fines voted by the Committee to be imposed on the Members, viz.

On *William Laud* Archbishop of *Canterbury*, ——— 20000*l*.

On each of the Bishops of *London* and *Ely*, ——— 10000*l*.

On each of the Bishops of *Bath*, *Worcester*, *Litchfield*, *Salisbury*, *Montague* and *Duppa*, } 5000*l*

On each of the Bishops of *Hereford* and *St David*, 3000*l*.

On the Bishop of *Gloucester*, 2000*l*.

And on 7 other Bishops, each, 1000*l*.

And the Deans, Archdeacons and Proctors in the said Convocation, had each of them Fines set on them, from 200*l*. to 1000*l*.

This Bill miscarrying, the Commons ordered thirteen of the said Bishops to be

impeached verbally by Serjeant *Wild* at the Bar of the House of Lords; who being admitted into that House, said,

My Lords,

The Knights, Citizens and Burgeses of the Commons-House of Parliament, being sensible of the great Infelicities and Troubles which the Commonwealth hath sustained by the exorbitant Courses of the Bishops, and knowing well what the wise Man saith, *That if Sentence be not speedily executed against an evil Work, the Hearts of the Sons of Men are set upon further Michief*, (the timely redress whereof doth better become the Wisdom of a Parliament than a too late woeful Repentance) have commanded me to present unto your Lordships, That

Walter Bishop of *Winchester*, *Robert* Bishop of *Coventry* and *Litchfield*, *Godfrey* Bishop of *Gloucester*, *Joseph* Bishop of *Exeter*, *John* Bishop of *St Asaph*, *William* Bishop of *Bath* and *Wells*, *George* Bishop of *Hereford*, *Matthew* Bishop of *Ely*, *William* Bishop of *Ban-ger*, *Robert* Bishop of *Bristol*, *John* Bishop of *Rocheſter*, *John* Bishop of *Peterborough*, *Morgan* Bishop of *Lan-daff*, together with *William* Archbishop of *Canterbury*, and others, of the Clergy of that Province, at a Convocation or Synod for the same Province, begun at *London* in the Year 1640, did contrive, make and promulge several Constitutions and Canons Ecclesiastical, containing in them divers matters contrary the to King's Prerogative, to the Fundamental Laws and Statutes of the Realm, to the Rights of Parliament, to the Propriety and Liberty of the Subjects and Matters tending to Sedition, and of dangerous Consequence.

And to add more Weight and Efficacy to this their monstrous Design, they did at the same Synod, under a specious and fair Title, grant a Benevolence or Contribution to his Majesty, to be paid by the Clergy of that Province contrary to Law. But it rested not there, for though this had been enough to have affrighted and terrified the King's People with strange Apprehensions and Fears; yet that these might not seem to be Contrivances of the Brain or Fancies only, they were put in Execution, and were executed upon divers with Animosity and Rigour, to the great Oppression of the Clergy

D d d d

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of this Reader, and other his Majesty's
Subjects, and in Contempt of the King
and of the Law.

‘ Whether those Persons, my Lords, that are culpable of these Offences shall be thought fit to have an Interest in the Legislative Power, your Lordships Wisdom and Justice is able to judge.

‘ But for these matters and things, the Knights, Citizens and Burgesses of the Commons House in Parliament, in the Name of themselves, and of all the Commons of *England*, do impeach the said Bishops before named of the Crimes and Misdemeanours before expressed; and do therefore pray, that they may be forthwith put to their Answers in the Presence of the Commons, and that such farther Proceedings may be had against them as to Law and Justice shall appertain.’

While this Impeachment was depending, the Rabble encouraged by the Commons took the Liberty of assaulting the Bishops and such of the Peers as they apprehended to be their Friends; in their Passage to the House of Lords, and rendered their Attendance on that House impracticable; which occasioned that Protest recited in the Proceedings against Bishop *Williams*, wherein they protest against all Laws, Orders, Votes and Determinations, as in themselves void and of none effect, which in their Absence since the 27th Instant, have already passed: As likewise against all such, as shall hereafter pass during the time of their forced and violent Absence from the said Honourable House. Subscribed *York, Durham, Litchfield and Coventry, Norwich, St. Asaph, Bath and Wells, Hereford, Oxford, Ely, Gloucester, Peterborough, and Landaff.*

This Protest being sent by the King to the House of Peers, and by them to the Commons ; that House immediately resolved, That the twelve Bishops who signed the said Protest, were Guilty of High Treason ; and Mr *Glyn* was ordered to go to the Lords, and at their Bar in the Name of the Commons, and all the Commons of *England*, to accuse these twelve Prelates of High Treason, for endeavouring to subvert the Fundamental Laws of the Realm, and the very Being of Parliaments, manifested by preferring the Petition and Protestation ; and to desire the Lords, that they may forthwith be sequestred from Parliament, and put into safe Custody ; and

that their Lordships would appoint a speedy Day for the Commons to charge them, and they to answer, for that the Commons were ready to make good their Charge.

He was farther ordered to give the Lords Thanks, for communicating this Petition with so much Affection and Speed, and for expressing their Sense thereof.

After Mr Glym had delivered this at the Bar, the Lords sent the Black Rod instantly to find out these Bishops and apprehend them, and by eight of the Clock at Night they were all taken, and brought upon their Knees to the Bar, and ten of them committed to the Tower, and two (says Mr Rusworth) in regard of their Age, and indeed of the worthy parts of one of them, the learned Bishop of *Durham*, were committed to the Black Rod.

The Bishops on their Petition had Counsel assigned them, and time given to put in their Answer.

In January following, each of the Bishops put in the following short Plea to the said Impeachment, *viz.*

‘ I — Bishop of — saving to
myself all Advantages of Exception,
&c. do for myself say that I am Not
Guilty of the said Treason charged by
the said Impeachment in manner and
form as the same is therein charged.’

The Commons instead of Proceeding on this Impeachment, ordered a Bill to be brought again to take away the Votes of the Bishops in Parliament, and all Temporal Jurisdiction and Offices, as to be Privy Counsellors, Justices of Peace, &c. from them and all others in Holy Orders, and to this the Royal Assent was afterwards given : The following Year the two Houses passed a Bill for abolishing of Episcopacy. (*But in this and their future Proceedings against the Bishops and Clergy, the two Houses had not the King's Concurrence.*)

But I should have taken notice of an Act made in the Year 1641, which repeals that Branch of the Statute 1 *Eliz.* concerning Commissioners and Causes Ecclesiastical, which made a very great Alteration in the Ecclesiastical Government, and is of the following Tenour, *viz.*

Whereas in the Statute of 1 Eliz. Cap. 1. there is a Clause to this Effect, viz. That the Queen's Majesty, her Heirs and Successors, shall have Power and Authority by Letters Patent under the great

1640, 1641
16, 17 CL

Their Place

Expelled the
House of
Lords, &c.

Feb. 1641-
Episcopacy
abolished by
the Usur-
pers.

The High
Commission
Court abo-
lished.

30 Decem.
1641.

Twelve
Bishops im-
peached of
High Trea-
son.

1640, 1641. Great Seal of England, to assign, name, and authorise such Person or Persons, being natural born Subjects to her Highness, as she her Heirs and Successors should think meet, to exercise, use, and execute under her Highness, her Heirs or Successors, all manner of Jurisdiction, Privileges and Preheminences touching or concerning any Spiritual Jurisdiction within her Realm of England, Ireland, or any of Her Highness's Dominions or Countries: And to use, reform, redress, order, correct and amend, all Errors, Heresies, Abuses, Offences, Contempts and Enormities whatsoever, which by any manner Spiritual or Ecclesiastical Power, Authority or Jurisdiction can or may be lawfully reformed, ordered, redressed, corrected, restrained or amended; and that such Persons so to be assigned, named, authorised, and appointed by and after the said Letters Patent, to him, or them, made and delivered, should have full Power and Authority by Virtue of that Act, and the said Letters Patent to exercise, use and execute all the Premises, according to the Tenour and Effect of the said Letters Patent.

1. It is enacted by Parliament, that the said Branch, Clause, Article, Sentence, and every manner and thing in that Branch, shall from henceforth be repealed, annulled, revoked, and utterly made void for ever.

2. That no Archbishop, Bishop, or Vicar-General, Chancellor or Official, nor Commissary of any Archbishop, Bishop or Vicar-General, or any other Spiritual or Ecclesiastical Judge, Officer or Minister, exercising any Spiritual or Ecclesiastical Powers by any Grant, Licence or Commission from the King, his Heirs or Successors, shall from and after the first of August 1641, award, impose, or inflict any pain, Penalty, Fine, Amercement, Imprisonment, or other Corporal Punishment upon any of the King's Subjects, for any Contempt, Misdemeanour, Crime, Matter or Thing whatsoever belonging to Spiritual or Ecclesiastical Jurisdiction, or shall *ex Officio*, or otherwise tender, give or minister unto any Church-Warden, Sideman, or any other Person whatsoever, any Corporal Oath to make any Presentment of any Crime or Offence, to confess or accuse himself of any Crime or Offence, Delinquency, or Misdemeanour, whereby or by reason whereof he or she may be liable to any Pain, Penalty or Punish-

ment whatsoever, upon Pain to forfeit to every Party so grieved treble Damages, and 100 l. for him or them that shall first demand or sue for the same; the said treble Damages and 100 l. to be demanded and recovered by Action of Debt in any Court of Record, wherein no Privilege is effoined, Protection or Wager of Law shall be allowed the Defendant: And every Person for any Act or Offence prohibited by this Statute, shall be disabled to continue in any Office or Employment of Justice, or to exercise any Authority by force of any Commission or Letters Patents of the King, his Heirs and Successors.

That after the first of August (41) no New Courts shall be erected, ordained, or appointed within the Realm of England, and Dominion of Wales, that shall have the like Power, Jurisdiction or Authority as the High Commission Court hath or pretendeth to have; but all such Letters Patents, Commissions and Grants made, or to be made, by the King his Heirs or Successors, and all Powers and Authorities granted, or mentioned to be given thereby, and all Acts, Sentences, and Decrets made by Virtue and Colour thereof shall be utterly void.

This Repeal of the Statute of 1 Eliz. made the Discipline of the Church of England very little regarded, and the Toleration has perfectly taken away the Sting of all Ecclesiastical Censures.

While the two Houses proceeded against the Bishops and Clergy in general, they prosecuted some of the Bishops and Clergy separately; particularly Archbishop Laud, whom they impeached of High Treason, as appears by his Tryal in the first Collection: They also Impeached Dr Matthew Wren, Bishop of Ely, in the Year 1640, and the next Year exhibited Articles against him of the following Tenour.

The Preamble charges the Bishop with being popishly affected; endeavouring to suppress the powerful Preaching of God's Word; and introducing divers Rites tending to Superstition and Idolatry, (*viz*).

I. That he caused the east End of the Chancels to be raised to place the Communion-Table upon.

II. That he caused the Communion-Table to be placed Altar-wise at the east End of the Chancel.

III. That he railed in the Communion-Table, and punished several for entering within the Rails.

IV. That

1640, 1641.
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Bishop
Wren's Im-
peachment.

1640,
1641.
16, 17 C. I.

IV. That he ordered the Pews to be so made, that all People should kneel with their Faces towards the East; and suffered no Seats in the Chancel on the Sides of the Communion-Table.

V. That he ordered the second Service to be read at the Communion-Table.

VI. That the Bishop and his Chaplains, and others by their Example used Bowings towards the Altar.

VII. That he compelled the Communicants to receive the Sacrament on their Knees at the Rails, and excommunicated those that would not.

VIII. That he ordered there should be no Sermons on *Sundays* in the Afternoon, or on the Week Days, without his Licence; or any Catechise taught but the Church Catechise; and punished several Ministers for not reading the Book of Sports.

IX. That he ordered there should be no Difference made in the Ringing the Bells for Church, when there was a Sermon and when there was none.

X. That he forbid Ministers preaching Preparation Sermons several *Sundays* before the administering the Lord's Supper.

XI. That he endeavoured to suppress the Power of Prayer, by prohibiting all Prayers in the Pulpit, but what were warranted by the Canon; and would admit of no Prayers for the Sick, but those in the Liturgy.

XII. That he enjoined all Ministers to read Prayers in a Hood and Surplice.

XIII. That he suspended or deprived fifty Ministers for not observing his Injunctions, and compelled several of them to fly their Countries.

XIV. That he compelled the Inhabitants of his Diocese to alter their Pews and Chancel according to his Injunctions, putting them to the Expence of 5000*l.* and upwards, and prosecuting those who refused to contribute to such Alterations.

XV. That he caused those to be prosecuted, who refused to come up to the Rails to receive, or to stand at the reading of the Gospel, or refused to observe his other Injunctions.

XVI. That by his said rigorous Dealings, he had compelled many Artificers and Mechanicks employed in the woollen Manufacture, to fly into *Holland*; and there set up these Manufactures, to the Hindrance of the Trade of this Kingdom, and impoverishing the People.

XVII. That he declared what he had

done was by the King's Command, whereby, contrary to his Duty, being Dean of his Majesty's Chappel, he endeavoured to give the People an ill Opinion of his Majesty.

XVIII. That he used Superstitious and Idolatrous Actions and Gestures in administering the Sacrament; consecrating the Bread and Wine standing before the Altar with his Back to the Altar; erecting the Bread and Wine, and bowing low before them.

XIX. That he caused a Crucifix to be engraved on his Episcopal Seal.

XX. That he employed such Chaplains and Ministers, as he knew were affected to such Innovations and to Popery.

XXI. That he oppressed several Patrons, by admitting Incumbents into Livings, without any Title.

XXII. That he farmed out the Profits of his Primary Visitation for 500*l.* and for the Benefit of his Farmer, set forth a Book containing 139 Articles, and 897 Questions, according to which the Church Wardens were compelled to present, on Pain of Perjury; and those who refused, were prosecuted, and enjoined Penance.

XXIII. That the Church Wardens were forced to have their Presentments written by Clerks who bought the Visitation, and extorted great Sums from them; Of some two and twenty Shillings, and of some more for writing a Presentment.

XXIV. That he compelled the Inhabitants of *Norwich* to pay two Shillings in the Pound in lieu of Tythes for their Houses; and by false Sequestrations procured his Majesty to declare it to be his Royal Pleasure under the Great Seal, that if any Person refused to pay the said Rate of two Shillings, the Cause should be heard in the Bishop's Court, and that no Prohibition should be granted; and by colour of the said Order, several Persons were obliged to pay the said Rate.

XXV. That he compelled the Parishioners of his Diocese to pay excessive Wages to their Parish Clerks.

I don't find there were any farther Proceedings on this Impeachment; but Bishop *Wren* was afterwards prosecuted with the rest of his Brethren, and involved in the common Ruin, Episcopacy being abolished by the same Parliament, and all the Lands of the Church sacrilegiously devoured by the Puritans under Pretence of effecting a thorough Reformation.

Proceedings

Proceedings against JOHN Lord FINCH, Baron of Fordwich, Lord Keeper of the Great Seal of England, for High Treason. Anno 1640. 16 CAR. I.

Lord Keeper Finch.

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A Resolution to impeach him.

His Defence in the House of Commons.

THE Lord Keeper receiving Intelligence that the House of Commons were about to impeach him, sent a Letter to the Speaker, to desire he might be heard in his Defence before they proceeded any farther against him: Which being granted, his Lordship came to the House on the 12th of December, carrying the Purse himself; And a Chair being set for him, the Speaker told his Lordship he might sit down, upon which he bowed low, and laying the Seal and his Hat in the Chair, he leaned on the Back of it, and made a Speech to the House of the following Tenour.

Mr Speaker, I do first present my humble Thanks to this Honourable Assembly, for this Favour vouchsafed me, in granting me admittance to their Presence, and do humbly beseech them to believe it is no desire to preserve my self, or my Fortune, but to deserve the good Opinions of those that have drawn me hither.

I do profess in the presence of him that knoweth all Hearts, that I had rather go from Door to Door, and crave *Da obolum Belizario*, &c. with the good Opinion of this Assembly, than live and enjoy all the Honours and Fortunes I am capable of.

I do not come hither with an Intention to justify my Words, my Actions, or my Opinions; but to make a plain and clear Narration for my self, and then humbly to submit to the Wisdom and Justice of this House my self and all that concerns me.

I do well understand, Mr Speaker, with what Disadvantage any Man can speak in his own Cause; and if I could have told how to have transmitted my Thoughts and Actions by a clearer Representation of another (I do so much defy my own Judgment in working and my Ways in expressing) that I

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should have been a most humble Suitor another might have done it; But this House will not take Words, without clear and ingenuous dealing, and therefore I shall beseech them to think I come not hither with a set or studied Speech; I come to speak my Heart, and to speak it clearly and plainly, and then leave it to your Clemency and Justice. And I hope if any thing shall slip from me, to work contrary to my Meaning and Intention, disorderly or ill placed, you will be pleased to make a favourable Construction, and leave me the Liberty of Explanation, if there shall be any, but I hope there shall be no Cause for it.

I hope for my Affection in Religion, no Man doubteth me. What my Education, what and under whom for many Years, is well known. I lived near thirty Years in the Society of *Grays Inn*: And if one that was a Reverend Preacher in my time (Dr *Sibbs*) were now alive, he were able to give Testimony to this House, that when a Party ill affected in Religion sought to weary him, and tire him out, he had his chiefest Encouragement from me.

I have now Mr Speaker been fifteen Years of the King's Council; from the first Hour to this Minute, no Man is able to say that ever I was Author, Adviser or Consenter to any Project.

It pleased the King (my Gracious Master, after I had served him divers Years) to prefer me to two Places, to be Chief Justice of the Common Pleas, and then Keeper of his Great Seal: I say it in the presence of God, I was so far from the Thought of the one, and from the Ambition of the other, that if my Master's Grace and Goodness had not been, I had never enjoyed those Honours.

I cannot tell, Mr Speaker, nor I do not know what Particulars there are

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that may draw me into your Disfavour, or ill Opinion, and therefore I shall come very weakly armed: Yet to those that either in my own Knowledge, or by such Knowledge as is given me, and not from any in this House, I shall speak somewhat, that I hope being Truth, and accompanied with Clearness and Ingenuity, will at least procure some Allay of that ill Opinion which may perhaps be conceived of me.

Mr Speaker, I had once the Honour to sit in the Place that you do; from the first time that I came thither, to this unfortunate time, I do appeal to all that were here then if I served you not with Candor. Ill Office I never did to any of the House, good Offices I have Witnesses enough I did many. I was so happy, that upon Occasion which once happened, I received an Expression and Testimony of the good Affection of this House towards me.

For the last unhappy Day, I had a great Share in the unhappiness and sorrow of it. I hope there are enough to remember, no Man within the Walls of this House did express more Symptoms of Sorrow, Grief and Distraction than I did.

After an Adjournment for two or three Days, it pleased His Majesty to send for me, to let me know that he could not so resolve of things as he desired, and therefore was desirous that there might be an Adjournment for some few Days more. I protest I did not then discern in His Majesty, and I believe it was not in his Thoughts to think of the dissolving of this Assembly; but he was pleased in the first Place to give me a Command to deliver his Pleasure to the House for an Adjournment for some few Days, till the Monday following, as I remember; and commanded me withal to deliver his Pleasure, that there should be no farther Speeches, but forthwith upon the Delivery of the Message come and wait upon him: He likewise commanded me, if Questions were offered to be put, upon my Allegiance I should not dare to do it; how much I did then in all humbleness reason with His Majesty, is not for me here to speak; Only thus much let me say, I was no Author of any Council in it, I was only a Person in receiving Commission. I speak not this as any thing I now produce or do invent, or take up for my own excuse, but that which

is known to divers, and some Honourable Persons in this House, to be most true: All that I will say for that, is humbly to beseech you all to consider, that if it had been any Man's Case, as it was mine, between the Displeasure of a Gracious King, and the ill Opinion of an Honourable Assembly, I beseech you lay all together, lay my first Actions and my Behaviour with the last, I shall submit to your Honourable and Favourable Constructions.

For the Shipping Business, my Opinion of that Cause hath lain heavy upon me. I shall clearly and truly present unto you what every thing is, with this Protestation, That if in reckoning up my own Opinion, what I was of, or what I delivered, any thing of it be displeasing or contrary to the Opinion of this House, that I am far from justifying of it, but submit that and all other my Actions to your Wisdoms and Goodness.

Master Speaker, the first Writs that were sent out after the Shipping Business, I had no more knowledge, and was as ignorant of, as any one Member of this House, or any one Man in this Kingdom. I never was the Author nor adviser of it, and will boldly say from the first to this Hour, I did never advise nor council the setting forth of any Ship-Writs in my Life.

Master Speaker, It is true that I was made Chief Justice of the Common Pleas some four Days before the Ship-Writs went out to the Ports and Maritime Places. As I do remember the 28th of October 1634, they do bear Test, and as I was sworn Justice the 16th of October, so as they went out in that time but without my Knowledge or Privy; the God of Heaven knows this to be true.

Master Speaker, Afterwards His Majesty was pleased to command my Lord Chief Justice of the King's Bench that then was, Sir Thomas Richardson, and Chief Baron of the Exchequer that now is, and my self, then Chief Justice of the Common Pleas, to take into Consideration the Precedents then brought unto us; which we did, and after returned to His Majesty, what we had found out of those Precedents.

It is true that afterwards His Majesty did take into Consideration that if the whole Kingdom were concerned, that it was not reason to lay the whole

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'Burthen upon the Cinque Ports and
'Maritime Towns.

'Thereupon, upon what Ground his
'Majesty took that into his Consideration,
'I do confess I know nothing of it.

'His Majesty did command my Lord
'Chief Justice that now is, my Lord
'Chief Baron and myself, to return our
'Opinions, 'Whether when the whole
'Kingdom is in Danger, and the King-
'dom in general is concerned, it be not
'according to Law and Reason, that the
'whole Kingdom, and his Majesty, and
'all interested therein, should join in
'defending and preserving thereof.'

'This was in time, about 1634.

'In Michaelmas Term following, his
'Majesty commanded me to go to all the
'Judges, and require their Opinions in
'particular.

'He commanded me to do it to every
'one, and to charge them upon their
'Duty and Allegiance to keep it secret.

'Mr Speaker, It was never intended
'by his Majesty (so professed by him, at
'that time, and so declared to all the
'Judges, that it was not required by him)
'to be such a binding Opinion to the
'Subject, as to hinder him from calling
'it in question, nor to be binding to them-
'selves, but that upon better Reason and
'Advice they might alter it, but desired
'their Opinions for his own private
'Reason.

'I know very well, that extrajudicial
'Opinions of Judges ought not to be
'binding.

'But I did think and speak my Heart
'and Conscience freely; myself and the
'rest of the Judges being sworn, and by
'our Oaths tyed to counsel the King when
'he should require Advice of us, that we
'were bound by our Oaths and Duties to
'return our Opinions.

'I did obey his Majesty's Command, and
'do here before the God of Heaven avow it.

'I did never use the least Promise of
'Preferment or Reward to any, nor did
'use the least Menace; I did leave it
'freely to their own Consciences and
'Liberty; for I was left the Liberty of
'my own by his Majesty, and had reason
'to leave them the Liberty of their own
'Consciences.

'And I beseech you, be pleased to have
'some Belief, that I would not say this,
'but that I know the God of Heaven
'will make it appear; and I beseech you,
'that extravagant Speeches may not move

'against that which is a positive and
'clear Truth.

'Mr Speaker, in the Discourse of this,
'(as is between Judges) some small
'Discourses sometimes arose, yet never
'was any Cause wherein any Judges con-
'ferred, that were so little Conference as
'between me and them.

'Mr Speaker, against a Negative I can
'say nothing, but I shall affirm no-
'thing unto you, but by the Grace of
'God, as I affirm it to be true, so I make
'no Doubt of making it appear to be so.

'This Opinion was subscribed without
'Sollicitation; there was not any Man
'of us did make any Doubt of subscrib-
'ing our Opinion but two, Mr Justice
'Hutton and Mr Justice Crooke.

'Mr Justice Crooke made not a Scruple
'of the thing but of the Introduction,
'for it was thus.

'That whereas the Ports and mari-
'time Towns were concerned; there ac-
'cording to the Precedents in former
'Times, the Charge lay on them.

'So when the Kingdom was in Danger,
'of which his Majesty was the sole Judge,
'whether it was not agreeable to Law
'and Reason, the whole Kingdom to
'bear the Charge.

'I left this Case with Judge Crooke.

'The next Term I spake with him,
'he could give me no Resolution, be-
'cause he had not seen the Writs in for-
'mer Times, but did give his Opinion,
'That when the whole Kingdom was in
'Danger, the Defence thereof ought to
'be borne by all.'

'So of that Opinion of his, there was
'no need of Sollicitation.

'I speak no more here, than I did
'openly in my Argument in the Ex-
'chequer-Chamber.

'This is the naked Truth: For Mr
'Justice Hutton he did never subscribe at
'all.

'I will only say this, That I was so
'far from pressing him to give his Opini-
'on, because he did ask time to con-
'sider of it, that I will boldly say, and
'make it good, that when his Majesty
'would have had him sometimes sent for,
'to give his Opinion, I beseeched his Ma-
'jesty to leave him to himself and his Con-
'science, and that was the ill Office I did.

'The Judges did subscribe in Novem-
'ber or December 1635.

'I had no Conference (nor truly I think)
'by Accident, any Discourse with any
'of

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of the Judges touching their Opinions: For 'till February 1636 there was no Speech of it, for when they had delivered their Opinions, I did return according to my Duty to my Master the King, and delivered them to him, in whose Custody they be.

In February 1636, upon a Command that came from his Majesty by one of the then Secretaries of State, the Judges all assembled in *Gray's-Inn*; we did then fall into a Debate of the Case then sent unto us, and we did then return our Opinion unto his Majesty, there was then much Discourse and great Debate about it.

My Opinion and Conscience at that time, was agreeable to that Opinion I then delivered.

I did use the best Arguments I could, for the Maintenance of my Opinion, and that was all I did.

It is true, that then at that time, Mr Justice *Hutton* and Mr Justice *Crooke*, did not differ in the main Point, which was this;

“When the Kingdom was in Danger, the Charge ought to be born by the whole Kingdom.”

But in this Point, “Whether the King was the sole Judge of the Danger, they differed.”

So as there was between the first Subscription, and this Debate and Consultation some fifteen Months Difference.

It is true that all of them did then subscribe, both Justice *Hutton* and Justice *Crooke*, which was returned to his Majesty, and after published by my Lord-Keeper (my Predecessor) in the Star-Chamber.

For the Manner of publishing it, I will say nothing, but leave it to those, whose Memories will call to mind, what was then done.

The Reason of the Subscription of Justice *Hutton* and Justice *Crooke*, (though they differed in Opinion) grew from this that was told them from the rest of the Judges:

“That where the greater Number did agree in their Vote, the rest were involved and included.”

And now I have faithfully delivered what I did in that Business, till I came (which was afterwards) to my Argument in the Exchequer-Chamber; for the Question was, *a Scire Facias* issued out of the Exchequer in that Case of Mr *Hampden's*, of which I can say

nothing, for it was there began, and afterwards rejoined to have Advice of all the Judges.

Mr Speaker, among the rest, (according to my Duty) I argued the Case.

I shall not trouble you to tell you what my Argument was, I presume there are Copies enough of it; only I will tell you, there are four Things very briefly that I then declared.

First, Concerning the Matter of Danger and Necessity of the whole Kingdom.

I profess that there was never a Judge in the Kingdom did deliver an Opinion, but that it must be in a Case of apparent Danger.

When we came to an Argument of the Case, it was not upon a Matter of Issue, but it was upon a Demurrer.

Whether the Danger was sufficiently admitted in pleading, and therefore was not the Thing that was in dispute, that was the first Degree and Step that led unto it.

I did deliver myself as free and as clear as any Man did, That the King ought to govern by the positive Laws of the Kingdom; That he could not alter nor change, nor innovate in Matters of Law, but by common Consent in Parliament.

I did farther deliver, That if this were used to make a farther Revenue or Benefit to the King, or any other way but in Case of Necessity, and for the Preservation of the Kingdom, the Judgment did warrant no such thing.

My Opinion in this Business, I did in my Conclusion of my Argument, submit to the Judgment of this House.

I never delivered my Opinion, That Money ought to be raised, but Ships provided for the Defence of this Kingdom, and in that the Writ was per-
formed:

And that the Charge ought not to be in any Case, but where the whole Kingdom was in Danger.

And Mr Justice *Hutton*, and Mr Justice *Crooke*, were of the same Opinion with me.

I do humbly submit, having related unto you my whole Carriage in this Business, humbly submitting myself to your grave and favourable Censures, beseeching you not to think that I delivered these Things with the least Intention to subvert or subject the Common-Law of this Kingdom, or to bring in, or introduce

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'troduce any new Way of Government,
'it hath been far from my Thoughts,
'as any Thing under the Heavens.

'Mr Speaker, I have heard too, that
'there have been some ill Opinion con-
'ceived of me about Forest Business;
'which was a Thing as far out of the
'way of my Study, as any thing I know
'towards the Law.

'But it pleased his Majesty, in the
'Sickness of Mr Noy, to give some
'short Warning to prepare myself for
'that Employment.

'When I came there, I did both the
'King and Commonwealth acceptable
'Service; for I did, and dare be bold
'to say, with extream Danger to myself
'and Fortune, (some do understand my
'Meaning herein) run through that Bu-
'siness.

'A Thing in my Judgment consider-
'able for the Advantage of the Com-
'monwealth, as could be undertaken.

'When I went down about that Em-
'ployment, I satisfied myself about the
'Matter of Perambulation.

'There were great Difficulties of O-
'pinions what Perambulation was.

'I did arm myself as well as I could,
'before I did any thing in it.

'I did acquaint those that were then
'Judges in the Presence of the noble
'Lords, with such Objections as I thought
'it my Duty to offer unto them.

'If they thought they were not Ob-
'jections of such Weight as were fit to
'stir them, I would not do the King that
'Disservice.

'They thought the Objections had such
'Answers as might well induce the like
'upon a Conference with the whole Coun-
'try, admitting me to come and confer
'with them, the Country did unanimously
'subscribe.

'It fell out afterwards, that the King
'commanded me, and all this before I
'was Chief Justice, to go into *Essex*;
'and did then tell me, he had been inform-
'ed that the Bounds of the Forest were
'narrower than in truth they ought to be,
'and I did according to his Command.

'I will here profess that which is known
'to many, I had no Thought or Inten-
'tion of enlarging the Bounds of the
'Forest farther than H. and that Part
'about it, for which there was a Peram-
'bulation about 26 *Edw.* IV.

'I desired the Country to confer with
'me about it, if they were pleased to do
'it; and then, according to my Duty, I

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'did produce those Records which I
'thought fit for his Majesty's Service, leav-
'ing them to discharge themselves, as by
'Law and Justice they might do.

'I did never in the least kind go about
'to overthrow the Charter of the Forest.

'And did publish and maintain *Charta*
'*de Foresta*, as a sacred Thing, and no
'Man to violate it, and ought to be
'preserved for the King and Common-
'wealth.

'I do in this humbly submit what I
'have done, to the Goodness and Justice
'of this House.

*After which his Lordship withdrew, and
he was the same Day voted a Traytor.*

I. For refusing to read the Remonstrance
against the Lord Treasurer *Weldon*, 4 Car.
when the Parliament desired it.

II. For soliciting, persuading and threat-
ning the Judges to deliver their Opinion
for the levying of Ship Money.

III. For several illegal Actions in Forest
Matters.

IV. For ill Offices done, in making the
King to dissolve the last Parliament, and
causing his Declaration thereupon to be put
forth.

The next Day he was accused before
the Lords; but he got up earlier, gave
them the Slip, and escaped into *Holland*.

The following Articles of Impeachment
were afterwards preferred against his Lord-
ship by the Commons, viz.

I. That the said *John* Lord *Finch*,
Baron of *Fordwich*, Lord Keeper, &c.
had traiterously and wickedly endeavoured
to subvert the fundamental Laws and
established Government of the Realm of
England, and instead thereof, to introduce
an arbitrary and tyrannical Government a-
gainst Law, which he hath declared by trait-
terous and wicked Words, Counsels, Opi-
nions, Judgments, Practices and Actions.

II. That in Pursuance of those his trait-
terous and wicked Purposes, he did, in
the third and fourth Year of his Majesty's
Reign, or one of them, being then Speaker
of the Commons House of Parliament,
contrary to the Commands of the House
then assembled and sitting, deny and
hinder the reading of some Things which
the said House of Commons required to
be read for the Safety of the King and
Kingdom, and Preservation of the Re-
ligion of this Realm; and did forbid
all the Members of the House to speak,
and said, That if any did offer to speak, he
would rise and go away, and said nothing
should be then done in the House, and

F f f f

did

Articles of
Impeach-
ment prefer-
red against
the Lord-
Keeper

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did offer to go away; and did thereby and otherwise, in as much as in him lay, endeavour to subvert the ancient and undoubted Rights and Course of Parliaments.

III. That he being of his Majesty's Council at the Justice Seat, held for the County of *Essex*, in the Month of *October*, in the tenth Year of his now Majesty's Reign, at *Stratford Langborn* in the same County, being then of his Majesty's Council, in that Service did practice by unlawful Means, to enlarge the Forest of that County, many Miles beyond the known Bounds thereof, as they had been enjoyed near three hundred Years, contrary to the Law, and to the Charter of the Liberties of the Forest and other Charters, and divers Acts of Parliament: And for effecting the same, did unlawfully cause and procure undue Returns to be made of Jurors, and great Numbers of other Persons who were unsworn, to be joined to them of the Jury; and threatened and awed the said Juries to give a Verdict for the King; and by unlawful Means did surprize the Country, that they might not make Defence; and did use several menacing wicked Speeches and Actions to the Jury and others, for obtaining his unjust Purpose aforesaid: And after a Verdict obtained for the King in the Month of *April* following, (at which time the said Justice Seat was called by Adjournment) the said *John Lord Finch*, then Lord-Chief-Justice of his Majesty's Court of Common-Pleas, and one of the Judges Assistants for them, continued by farther unlawful and unjust Practices to maintain and confirm the said Verdict; and did then and there, being Assistant to the Justice in Eyre, advise the Refusal of Traverse offered by the County, and all their Evidences, but only what they should verbally deliver, which was refused accordingly.

IV. That about the Month of *November*, 1635, he being then Lord-Chief-Justice of the Common-Pleas, and having taken an Oath for the due Administration of Justice to his Majesty's liege People, according to the Laws and Statutes of this Realm, contrived an Opinion in *bac verba*, (*When the good and safety &c.*) and did subscribe his Name to that Opinion: And by Persuasions, Threats, and false Suggestions, did solicit and procure *Sir John Bramstone*, Kt. then and now Lord-Chief-Justice of *England*, *Sir Humphry Davenport*, Kt. Lord-Chief

Baron of his Majesty's Court of Exchequer, *Sir Richard Hutton*, Kt. late one of the Justices of his Majesty's Court of Common-Pleas, *Sir John Denham*, Kt. late one of the Barons of his Majesty's Court of Exchequer, *Sir William Jones*, Kt. late one of the Justices of the said Court of King's-Bench, *Sir George Crooke*, then and now one of the Judges of the said Court of King's-Bench, *Sir Thomas Trevor*, Kt. late one of the Barons of the Exchequer, *Sir George Vernon*, Kt. then and now one of the Justices of the said Court of Common-Pleas, *Sir Robert Barkly*, Kt. then and now one of the Justices of the said Court of King's-Bench, *Sir Francis Crawley*, Kt. then and now one of the Justices of the said Court of Common-Pleas, *Sir Richard Weston*, Kt. then and now one of the Barons of the said Court of Exchequer, some or one of them to subscribe with their Names the said Opinion presently; and enjoined them severally, some or one of them, Secrecy upon their Allegiance.

V. That he the 9th of *June*, then being Lord-Chief-Justice of the said Court of Common-Pleas, subscribed an extrajudicial Opinion, in answer to Questions in a Letter from his Majesty in *bac verba*, &c.

And that he contrived the said Questions, and procured the said Letter from his Majesty, and whereas the said Justice *Hutton* and Justice *Crooke* declared to him their Opinions to the contrary, yet he required and pressed them to subscribe, upon his Promise that he would let his Majesty know the Truth of their Opinions, notwithstanding such Subscriptions, which nevertheless he did not make known to his Majesty, but delivered the same to his Majesty, as the Opinion of all the Judges.

VI. That he being the Lord-Chief Justice of the said Court of Common-Pleas, delivered his Opinion in the Chequer Chamber against *Mr Hampden*, in the Case of Ship Money; That he the said *Mr Hampden*, upon the Matter and Substance of the Case, was chargeable with the Money then in Question, a Copy of which Proceedings the Commons will deliver to your Lordships; and did solicit and threaten the said Judges some or one of them to deliver their Opinions in the like Manner against *Mr Hampden*, and after the said Baron *Denham* had delivered his Opinion for *Mr Hampden*, the said Lord *Finch* repaired purposely to the said

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said Baron Denbam's Chamber in *Serjeant's Inn* in *Fleet Street*, and after the said Mr Baron Denbam had declared and expressed his Opinion; urged him to retract the said Opinion which he refusing, was threatned by the Lord Finch because he refused.

VII. That he then being Lord Chief Justice of the Court of Common Pleas, declared and published in the Exchequer Chamber and Western Circuit, where he went Judge, That the King's Right to Ship-Money as aforesaid, was so inherent a Right to the Crown, as an Act of Parliament could not take it away; and with divers malicious Speeches inveighed against, and threatned all such as refused to pay Ship-Money: All which Opinions, contained in the fourth, fifth and sixth Articles, are against the Law of the Realm, the Subjects Right of Property, and contrary to former Resolutions in Parliament, and to the Petition of Right, which said Resolution and Petition of Right, were well known to him, and resolved and enacted in Parliament, when he was Speaker of the Commons House of Parliament.

VIII. That he being Lord Chief Justice of the Court of Common Pleas, did take the general Practice of that Court to his private Chamber; and that he sent Warrants into all or many Shires of *England* to several Men, as to *Francis Giles* of the County of *Devon*, *Robert Benson* of the County of *York*, Attorneys of that Court, and to divers others, to release all Persons arrested on any Out-lawry, for above forty Shillings Fees, whereas none by Law so arrested, can be bailed or released without Superfedeas under Seal or Reversal.

IX. That he being Lord Chief Justice of the Court of Common Pleas, upon a pretended Suit began in *Michaelmas* Term, in the 11th Year of his Majesty's Reign, altho' there was no Plaint or Declaration against him, did notoriously and contrary to all Law and Justice, by Threats, Menaces and Imprisonment, compel *Thomas Lawrence* an Executor, to pay nineteen Pounds twelve Shillings; and likewise caused *Richard Bernard*, being only Overseer of the last Will of that Testator, to be arrested for the Payment of the said Money, contrary to the Advice of the rest of the Judges of that Court, and against the known and ordinary Course of Justice, and his said Oath and Knowledge: And denied his Majesty's Subjects the common and ordinary Justice of this Realm, as to Mr *Limerick* and others, and for his private Benefit endamaged and ruined the

Estates of very many of his Majesty's Subjects, contrary to his Oath and Knowledge.

X. That he being Lord Keeper of the Great Seal of *England*, and sworn one of his Majesty's Privy Council, did by false and malicious Slanders, labour to incense his Majesty against Parliaments, and did frame and advise the publishing the Declaration after the Dissolution of the last Parliament.

All which Treasons and Misdemeanours above-mentioned, were done and committed by the said *John Lord Finch*, Baron of *Fordwich*, Lord Keeper of the Great Seal of *England*, and thereby he the aforesaid *Finch*, hath traiterously and contrary to his Allegiance, laboured to lay Imputations and Scandals upon his Majesty's Government, and to alienate the Hearts of his Majesty's liege People from his Majesty, and to set a Division between them, and to ruin and destroy his Majesty's Realm of *England*; for which they do impeach him the said Lord *Finch*, Baron of *Fordwich*, Lord Keeper of the Great Seal of *England*, of High Treason against our Sovereign Lord the King, his Crown and Dignity, of the Misdemeanours above-mentioned: And the said Commons by Protestation, saying to themselves the Liberty of exhibiting at any time hereafter, any other Accusation or Impeachment against the said Lord *Finch*; and also of replying to the Answer that the said *John Lord Finch* shall make unto the said Articles, or to any of them, and offering Proof of the Premises, or any of their Impeachments or Accusations that shall be exhibited by them, as the Case shall (according to the Course of Parliaments) require, do pray that the said *John Lord Finch*, Baron of *Fordwich*, Lord Keeper of the Great Seal of *England*, may be put to answer to all and every of the Premises, and such Proceedings, Examinations, Tryals and Judgments, may be upon every of them had and used, as is agreeable to Law and Justice.

On the 15th of *February* the House of Peers resolved, That a Proclamation should be issued out, to summon the Lord Keeper *Finch* to appear before the Lords in Parliament, to answer the said Accusation of High Treason brought against him. But he remained in exile in the Low Countries 'till the Restoration, when he came over to *England*, and died on the 20th of *November* in the same Year 1660, leaving no Issue, though he was twice married.

Proceedings

1640.
16 Car. I.

Judges.

Proceedings against the Judges for High Treason, and other Crimes and Misdemeanours, in the Year 1640, and 1641. 16 and 17 CAR. I.

1640.
1641.
16, 17 C. I.

Resolved that
their Opini-
ons in the
Case of Ship-
Money were
against Law.

IN the Parliament which met on the 3d of November, 1640, it was resolved by the Commons, *Nemine Contradicente*:

That the Charge imposed upon the Subjects for the providing and furnishing of Ships, and the Assessments for raising of Money for that purpose, commonly called Ship-Money, are against the Laws of the Realm, the Subjects Right of Property, and contrary to former Resolutions in Parliament, and to the Petition of Right.

Resolved upon the Question, *Nemine Contradicente*.

That the extrajudicial Opinions of the Judges published in the Star-Chamber, and enrolled in the Courts of *West. in hac Verba*, &c. (reciting the Judgment.)

In the whole and in every part of them are against the Laws of the Realm, the Subjects Right of Property, and contrary to former Resolutions in Parliament, and to the Petition of Right.

Resolved upon the Question, *Nemine Contradicente*.

That the Writ following in *hac verba*, &c. and the other Writs, commonly called the *Ship Writs*, are against the Laws of the Realm, the Right of Property, and Liberty of the Subjects, and contrary to former Resolutions in Parliament, and to the Petition of Right.

And a Committee, consisting of the Lord Falkland, Mr Hollis, Mr Hyde, Sir John Culpepper, and twelve Members more, were ordered to go forthwith to the several Judges, to know how they were solicited or threatned, and in what manner, and by whom, to give any Opinion or Judgment concerning Ship-Money, and they are to go two to a Judge.

The Committee hath likewise Leave to acquaint the Judges what hath been voted this Day in the House touching Ship-Money, and to use their own Discretions to ask such Questions as shall be material to the matter contained in the Order.

And it was referred to a Committee to prepare a Charge against the Judges who gave their Opinion in the Case of Ship-Money; and also to take into their Consideration their extrajudicial Opinions, and the Judgments in the Case of Ship-Money: And they are to enquire of the several Denials of *Habeas Corpus*, and Prohibitions, and their several extrajudicial Proceedings and Opinions concerning Ecclesiastical Jurisdictions, and the Court of Admiralty, and their Denial of legal and ordinary Proceedings in Cases of Justice, and the binding of the whole Kingdom by any one Man's particular Case; and they have Power to send for Parties, Witnesses, Papers, Records.

December 22d Mr Waller went up to the Lords with a Message from the Commons, that they had received divers Informations of Crimes of a very high Nature against Sir John Bramstone, Knight, Lord Chief Justice of the King's-Bench, Sir Humphrey Davenport, Justice Berkeley, and Justice Crawley; and desired their Lordships to consider of some such Course, that they put in good Security to abide the Censure of the Parliament.

The Judges being all present except the Lord Chief Baron, submitted themselves to the Pleasure of the House: Whereupon it was ordered, That they should for the present enter into Recognizance in open Court, with Condition to put in Bail of 10000*l.* a-piece on the 30th of December 1640, to appear before the Lords of Parliament from time to time, and to be present at the Judgment in Parliament against them, if there were any, and if they cannot procure Security as aforesaid, then to yield their Bodies upon the said 30th of December.

It was farther ordered by the Lords, That the Lord Chief Justice of the Common Pleas do give Notice to the Lord Chief Baron Davenport, that he appear before their Lordships to Morrow Morning

1640.
1641.
16, 17 C. I.

They give
Security to
appear.

The Artic

1640.
1641.
17 C.I.

ing, and that he see the aforefaid Judges do appear and fhew themfelves perfonally before him once a Day upon thofe Days when the Houfe doth not fit, that they may be forthcoming:

December 23. The Lord Chief Baron Davenport appeared in the Houfe of Lords and fubmitted himfelf to their Lordfhips Pleafure, and confented to enter into a Recognizance of the fame Condition as the Judges yefterday did, which was done accordingly.

Robert Berkley impeached of High Treason

February 12th. A Report being made by Mr Hyde, Chairman of the Committee for Judges, of the State and Nature of the Charge againft Sir Robert Berkley, one of the Judges of the King's-Bench, the Houfe proceeded to a Vote, that the faid Sir Robert Berkley fhall in the Name of the Commons of England, be impeached of High Treason, and other great Crimes and Mifdemeanours.

And Sir John Culpepper was ordered to go up to the Lords, and impeach him accordingly; and to defire that he may be forthwith committed; And to acquaint their Lordfhips, that in due time this Houfe will refort to their Lordfhips with particular Articles againft him.

Which being done, and it being now Term Time, and Judge Berkley fitting upon the King's-Bench in Weftminfter Hall, the Lords fent Mr Maxwell the Usher of the Black Rod, to fetch him off the Bench, which he performed in the Face of the Court, Weftminfter Hall being then full of People, and brought him away Prifoner; which was no fmall Amazement to the People and all the other Courts, and others of his Profeflion. Being brought to the Bar of the Lords Houfe, and acquainted with the Impeachment againft him, he was committed to the Cuftody of the elder Sheriff of London.

On the 6th of July 1641, the following Articles were carried up to the Lords by Mr Pierpoint, viz.

The Articles.

Articles of Impeachment of Sir Robert Berkley, Knight, one of the Juftices of the Court of King's-Bench, by the Commons in this prefent Parliament affembled, in their own Name, and in the Name of all the Commons of England, in Maintenance of their Accufation, whereby he ftandeth charged with High Treason, and other great Mifdemeanours.

I. That the faid Sir Robert Berkley, then being one of the Juftices of the faid Court of King's-Bench, hath traiterouf-

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ly and wickedly endeavoured to fubvert the fundamental Laws and eftablifhed Government of the Realm of England, and inftead thereof, to introduce an Arbitrary and Tyrannical Government againft Law, which he hath declared by traiterous and wicked Words, Opinions, Judgments, Practices, and Actions appearing in the faid Articles enfuing.

II. Whereas by the Statute made in the five and twentieth Year of the Reign of the late King Henry the Eighth, Prices of Victuals are appointed to be rated in fuch manner as in the Statute is declared; But it is manifef by the faid Statute, Corn is none of the Victuals thereby intended: Neverthelefs fome ill affected Perfons endeavouring to bring a Charge upon the Subjects, contrary to Law did furmife that the Prices of Corn might be rated in fuch manner, and fet according to the Direction of that Statute, and thereupon great Gain might be raifed to his Majefty by Licenfes and Difpenfations for felling Corn at other Prices; and a Command from his Majefty being procured to the Judges, and fent to them by William Noy, Efq; his Majefty's then Attorney General, to deliver their Opinions touching the Queftion, Whether Corn was fuch Victuals as was intended to have the Prices rated within the faid Statute? In Answer to fuch Demand, the faid Sir Robert Berkley, then being one of his Majefty's Juftices of the Court of King's-Bench, in Furtherance of the faid unlawful Charge, endeavoured to be impofed as aforefaid, the 30th Day of November, in the eighth Year of his now Majefty's Reign, did deliver his Opinion, that Corn was fuch Victuals, as was intended to have the Price rated within the faid Statute, which faid Opinion was contrary to Law, and to the plain Senfe and Meaning of the faid Statute, and contrary to his own Knowledge; and was given and delivered by him, with a Purpofe and Intention, that the faid unlawful Charge might be impofed upon the Subject.

III. That an Information being preferred in the Court of Star-Chamber by the faid William Noy, his Majefty's then Attorney General, againft John Overman, and fifteen other Soap-makers, Defendants, charging them with feveral pretended Offences, contrary to divers Letters Patents and Proclamations, touching the making and uttering Soap, and ufing the Trade of Soap-Makers, and o-

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ther Offences in the said Information mentioned; whereunto the Defendants did plead and demurr as to Part, and answer to other Part of the said Information: And the said Plea and Demurrer being over-ruled, for that the particulars therein insisted upon, would appear more fully after Answer and Proof; therefore the Defendants were ordered to answer without Prejudice, and were to be admitted to such Exceptions to the said Information and Advantages of the matter of the Plea and Demurrer upon the hearing, as should be material; And accordingly the Defendants did put in their Answers, and set forth several Acts of Parliament, Letters Patents, Charters, Customs, and Acts of Common Council of the City of London, and other matters materially conducing to their Defence, and in Conclusion pleaded *Not Guilty*. The said Sir Robert Berkley, then being one of the Justices of the Court of King's-Bench, upon the 30th of March, in the eighth Year of his now Majesty's Reign, upon an Order of Reference to him and others, by the said Court of Star-Chamber, to consider of the Impertinency of the said Answers, did certify the said Court of Star-Chamber, that the whole Answers, excepting four Words, and the ten last Lines, should be expunged, leaving thereby no more Substance of the said Answers, than the Plea of *Not Guilty*. And after, upon a Reference to him and others by Order of the said Court, of the Impertinency of the said Interrogatories, and Depositions of the Witnesses taken on the Defendants Part in the same Case; the said Sir Robert Berkley upon the second Day of May, in the eighth Year of his now Majesty's Reign, certified, that nine and thirty of the said Interrogatories, and the Depositions upon them taken, should be suppressed with the Answers, (except as aforesaid) although the same did contain the said Defendants most material Defence; yet were the same expunged and suppressed according to the said Certificates, both which said Certificates were contrary to Law and Justice, and contrary to his the said Sir Robert Berkley's own Knowledge, and contrary to the said former Order, whereby the Advantages were saved to the Defendants as aforesaid: And by reason thereof, the said John Overman, and the said other fifteen Defendants were sentenced in the said Court of Star-Chamber to be committed Prisoners to the Fleet,

and disabled from using their Trade of Soapmakers; and one of them fined in a thousand five hundred Pounds, two of them in a thousand Pound a-piece, four of them in a thousand Marks a-piece, which Fines were estreated into the Exchequer without any Mitigation: And the said Defendants, according to the said Sentence, were imprisoned and deprived of their Trade and Livelihood, tending to the utter Ruin of the said Defendants, and to the Overthrow of free Trade, and contrary to the Liberty of the Subjects.

IV. That he the said Sir Robert Berkley, then being one of the Justices of the King's-Bench, and having taken an Oath for the due Administration of Justice, according to the Laws and Statutes of this Realm, to his Majesty's liege People, on or about the last of December, subscribed an Opinion in *hæc verba*;

'I am of Opinion, that, as where the the Benefit doth more particularly redound to the Good of the Ports or Maritime Parts (as in Case of Piracy or Depredations upon the Seas) there the Charge hath been, and may be lawfully imposed upon them, according to the Precedents of former Times; So where the Safety and Good of the Kingdom in general is concerned, and the whole Kingdom in Danger (of which his Majesty is the only Judge) there the Charge of the Defence ought to be born by all the Realm in general: This I hold agreeable both to Law and Reason.'

V. That the said Sir Robert Berkley, then being one of the Justices of the Court of King's-Bench, and duly sworn as aforesaid, in February 1636, subscribed an extrajudicial Opinion in Answer to Questions, in a Letter from his Majesty in *hæc Verba*.

CHARLES REX.

'When the Good and Safety of this Kingdom in general is concerned, and the whole Kingdom is in Danger, whether may not the Kings by Writs under the Great Seal of England, command all the Subjects of this Kingdom at their Charge, to provide and furnish such Numbers of Ships with Men, Victuals and Munition, and for such time as he shall think fit, for the Defence and Safeguard of the Kingdom from such Peril and Danger; and by Law compel

The Question put to the Judges.

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‘compel the doing thereof, in Case of Refusal and Refractoriness? And whether in such Case is not the King the sole Judge, both of the Danger, and when and how the same is to be prevented and avoided?’

C. R.

May it please your most excellent Majesty,

The Judges
Answer.

‘We have according to your Majesty’s Command, severally every Man by himself, and all of us together taken into serious Consideration the Case and Question signed by your Majesty, and inclosed in your Royal Letter; and we are of Opinion, that when the Good and Safety of the Kingdom in general is concerned, and the whole Kingdom in Danger, your Majesty may by Writ under the Great Seal of *England*, command all the Subjects of this your Kingdom, at their Charge to provide and furnish such Number of Ships with Men, Victuals and Munition, and for such Time as your Majesty shall think fit, for the Defence and Safeguard of the Kingdom from such Danger and Peril, and that by Law your Majesty may compel the doing thereof in Case of Refusal or Refractoriness; and we also are of Opinion, that in such case your Majesty is the sole Judge, both of the Danger, and when and how the same is to be prevented and avoided.

John Bramston, John Finch, Humphrey Davenport, John Denham, Richard Hutton, William Jones, George Crooke, Thomas Trevor, George Vernon, Robert Berkley, Francis Crawley, Richard Weston.

VI. That he the said Sir *Robert Berkley*, then being one of the Justices of the Court of King’s-Bench, and duly sworn as aforesaid, did deliver his Opinion in the Exchequer-Chamber, against *John Hampden*, Esq; in the Case of Ship-Money, that he the said *John Hampden*, upon the matter and Substance of the Case was chargeable with the Money then in Question; a Copy of which Proceeding and Judgment, the Commons of this present Parliament have delivered to your Lordships.

VII. That he the said Sir *Robert Berkley*, then being one of the Justices of the Court of King’s Bench, and one of the Justices of Assizes for the

County of *York*, in *Lent* 1636, did deliver in his Charge to the Grand Jury, that it was a lawful and inseparable Flower of the Crown for the King to command, not only the Maritime Counties, but also those that were Inland, to find Ships for the Defence of the Kingdom. And then falsely and maliciously affirmed, that it was not his single Judgment, but the Judgment of all his Brethren, witnessed by their Subscriptions: And then also said, that there was a Rumour, that some of his Brethren that had subscribed, were of a contrary Judgment: But it was a base and unworthy thing for any to give his Hand contrary to his Heart; and then wished for his own part, that his Hand might rot from his Arm, that was Guilty of any such Crime, when as he knew that Mr Justice *Hutton* and Mr Justice *Crooke*, who had subscribed, were of a contrary Opinion, and was present when they were persuaded to subscribe, and did subscribe for Conformity only because the major Number of the Judges had subscribed: And he the said Sir *Robert Berkley* then also said, that in some Cases, the Judges were above an Act of Parliament, which said malicious Words were uttered as aforesaid, with intent and purpose to countenance and maintain the said unjust Opinions, and to terrifie His Majesty’s Subjects that should refuse to pay Ship-Money, or seek any Remedy by Law against the said unjust and illegal Taxation.

VIII. That whereas *Richard Chambers*, Merchant, having commenced a Suit for Trespas and false Imprisonment against Sir *Edward Bromfield*, Knight, for imprisoning him the said *Chambers*, for refusing to pay Ship Money, in the time that the said Sir *Edward Bromfield* was Lord Mayor of the City of *London*, in which Suit the said Sir *Edward Bromfield* did make a special Justification: The said Sir *Robert Berkley*, then being one of the Justices of the Court of King’s Bench in *Trinity-Term* last, then sitting on the Bench in the said Court upon Debate of the said Case between the said *Chambers*, and Sir *Edward Bromfield*, said openly in the Court, that there was a Rule of Law, and a Rule of Government: And that many things which might be done by the Rule of Law, might be done by the Rule of Government; and would not suffer the Point of the Legality of Ship-Money,

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1640, 1641. Money to be argued by the said *Chambers's* Council; All which Opinions, Declarations, Words and Speeches contained in the third, fourth, fifth, sixth, seventh and eighth Articles, are destructive to the Fundamental Laws of this Realm, the Subjects Rights of Property, and contrary to the former Resolutions in Parliament, and to the Petition of Right, which Resolution of Parliament, and Petition of Right, were well known to him, and resolved and enacted when he was the King's Serjeant at Law, and Attendant in the Lords House of Parliament.

IX. That he the said Sir *Robert Berkley*, then being one of the Judges of the Court of *King's Bench*, and being in Commission of the Peace, and duly sworn to execute the Office of a Justice of the Peace for the County of *Hertford*, on or about the seventh of *January* 1638, at which time the General Sessions of the Peace for the said County were then holden; the said Sir *Robert Berkley*, then and there sitting on the Bench, did revile, and threaten the Grand Jury, returned to serve at the said Sessions, for presenting the Removal of the Communion-Table in *All-Saints Church* in *Hertford* aforesaid, out of the Place where it anciently and usually stood, and setting it Altar-wise, against the Laws of this Realm in that Case made and provided, as an Innovation in matters concerning the Church; the said Grand Jury having delivered to them in Charge at the said Sessions, by Mr Serjeant *Atkins*, a Justice of Peace of the said County of *Hertford*, that by the Oath they had taken, they were bound to present all Innovations concerning such matters. And he the said Sir *Robert Berkley*, compelled the Foreman of the Jury, to tell him who gave him any such Information, and thereby knowing it to be one *Henry Brown*, one of the said Grand Jury he asked the said *Brown*, how he durst meddle with Church matters, who affirming that in the said Charge from Mr Serjeant *Atkins*, the said Jury was charged so to do; he the said Sir *Robert Berkley*, told the said *Brown*, he should therefore find Sureties for his good Behaviour; and that he the said Sir *Robert Berkley*, would set a great Fine on his Head, to make him an Example to others; and that thereupon the said *Brown* offered sufficient Bail, but he the said Sir *Robert Berkley* being incensed against him, refused the said Bail and

committed the said *Brown* to Prison, where he lay in Irons till the next Morning; and used to the said *Brown*, and the rest of the Jurors, many other reviling and terrifying Speeches; and said, He knew no Law for the said Presentment, and told the said *Brown*, that he had sinned in the said Presentment; and he compelled the said Grand Jurors to say, that they were sorry for what they had done in that Presentment, and bid them to trample the said Presentment under their Feet, and caused *Brown* to tear the said Presentment in his Sight: And he the said Sir *Robert Berkley*, when as *John Houland* and *Ralph Pemberton*, late Mayor of *St Albans*, came to desire his Opinion on several Indictments against *John Brown*, Parson of *St Albans*, and *Anthony Smith*, Vicar of *St Peter's* in *St Albans*, at the Quarter Sessions held at the said Town of *St Albans*, on the 24th of *June* 1639, for the removal of the Communion-Table out of the usual Place, and not Administering the Sacrament according to Law in that Case provided. He the said Sir *Robert Berkley* then told them, that such an Indictment was before him at *Hertford*, and that he quashed the same and imprisoned the Promoters, by which threatening and reviling Speeches, unjust Actions and Declarations, he so terrified the Jurors in those Parts, that they durst not present any Innovations in the Church-matters to their great Grief and Trouble of their Consciences.

And whereas several Indictments were preferred against *John Brook*, Parson of *Yarmouth*, by *John Ingram* and *John Carter*, for refusing several times to Administer the Sacrament of the Lord's Supper to them without any lawfull Cause, at the Assizes held at *Norwich* in ————— 1633, he the said Sir *Robert Berkley*, then being one of the Judges of the Assizes, proceeded then to the Tryal on the said Indictment, where the matter in Issue being, that the said *Brook* refused to Administer the said Sacrament, because the said *Ingram* and *Carter* would not receive Tickets with their Sur-Names before their Christian-Names, which was a Course never used amongst them, but by the said *Brook*. He the said Sir *Robert Berkley*, did then much discourage the said *Ingram's* Council, and over-rule the Cause for matters of Law; so as the Jury never went from the Bar, but there found for the said *Brook*. And the said *Robert Berkley*, bound

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bound the said *Ingram* to the Good-Behaviour for prosecuting the said Indictments, and ordered him to pay Costs to the said *Brooke* for wrongfully indicting him. And whereas the said *Carter*, not expecting the Tryal at the same Assizes, he preferred his Indictment was then absent, whereupon the said *Sir Robert Berkley* did cause to be entred upon the said Indictment, a *Vacat quia non sufficiens in Lege*, and ordered an Attachment against the said *Carter*; which said Proceedings against the said *Ingram* and *Carter*, by the said *Sir Robert Berkley*, were contrary to Law and Justice, and to his own Knowledge.

X. That the said *Sir Robert Berkley*, being one of the Justices of the Court of King's-Bench, and duly sworn, as aforesaid, in *Trinity Term*, 1637, deferred to discharge or bail *Alexander Jennings*, Prisoner in the *Fleet*, brought by *Habeas Corpus* to the Bar of the said Court, the Return of his Commitment being, that he was committed by two several Warrants from the Lords of the Council, dated the 5th of *November*, 1636, the first being only read in Court, expressing no Cause, the other for not paying Messengers Fees, and until he should bring a Certificate, that he had paid his Assessment for Ship-Money in the County of *Bucks*, but remitted him. And in *Michaelmas Term* after the said *Jennings* being brought by another *Habeas Corpus* before him as aforesaid, and the same returned; yet he the said *Sir Robert Berkley* refused to discharge or bail him, but remitted him. And in *Easter Term*, after several Rules were given for his Majesty's Council to shew Cause why the said *Jennings* should not be bailed; a fourth Rule was made for the said *Jennings*, to let his Majesty's Attorney General have Notice thereof; and Notice was given accordingly; and the said *Jennings* by another *Habeas Corpus* brought to the Bar in *Trinity Term* after, and the same Return with this Addition of a new Commitment of the 4th of *May*, suggesting, That the said *Jennings* had used divers scandalous Words in Derogation and Disparagement of his Majesty's Government: He the said *Jennings*, after several Rules in the End of the said *Trinity Term*, was again remitted to Prison; and he the said *Sir Robert Berkley* did on the 5th of *June* last, defer to grant His Majesty's Writs of *Habeas Corpus* for *William Pargiter* and *Samuel Danvers*, Esqrs; Prisoners in the

Gate-House and in the *Fleet*: And afterwards having granted the said Writ of *Habeas Corpus*, the said *Pargiter* and *Danvers* were, on the 8th of *June* last, brought to the Bar of the said Court, where the Returns of their Commitments were several Warrants from the Lords of the Council, not expressing any Cause; yet he the said *Sir Robert Berkley*, then sitting in the said Court, deferred to Bail the said *Pargiter* and *Danvers*, and the 18th of *June* last, made a Rule for a new Return to be received, which was returned the 25th of *June* last in *hac verba*.

Whereas His Majesty finding that his Subjects of *Scotland*, have in a *Rebellious and Hostile manner*, assembled themselves together, and intend not only to shake off their Obedience unto His Majesty, but also as Enemies to invade and infest this his Kingdom, to the Danger of His Royal Person, &c.

For Prevention whereof, His Majesty hath by advice of his Council-board, given special Command to all the Lord-Lieutenants of all the Counties of this Realm, appointed for their Rendezvous in their several and respective Counties, there to be conducted and drawn together into a Body for this Service. And whereas His Majesty, according to the Laws and Statutes of this Realm, and the constant Custom of his Predecessors, Kings and Queens of this Realm, hath Power for the Defence of this Kingdom, and resisting the Force of the Enemies thereof, to grant such Commissions under his Great Seal, to such fit Persons as he shall make choice of to array and arm the Subjects of this Kingdom, and to compel those who are of able Body, and of able Estates to arm themselves, and such as should not be able of Bodies, but of Ability of Estates, to assess them according to their Estates, to contribute towards the Charge of arraying and arming others, being able of Body, and not able in Estate to arm themselves. And such Persons as should be contrariant, to commit to Prison, there to remain until the King should take farther order therein.

And whereas the Earl of *Exeter*, by Virtue of His Majesty's Commission to him directed, for the arraying and arming of a certain Number of Persons in the County of *Northampton*, hath assessed *William Pargiter*, being a

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Man unfit in Body for that Service, but being of Estate and Ability fit to contribute amongst others to pay the Sum of five Shillings toward the arraying and arming of others of able Bodies; and wanting Ability to array and arm themselves.

And whereas we have received Information from the said Earl, that the said *William Pargiter*, hath not only in a wilful and disobedient manner refused to pay the said Money assessed upon him towards so important a Service to the Disturbance and Hindrance of the necessary Defence of this Kingdom, but also by his ill Example hath misled many others; and, as we have just cause to believe, hath practised to seduce others from that ready Obedience which they owe, and would otherwise have yielded to his Majesty's just Command, for the publick Defence of his Person and Kingdom, which we purpose with all convenient Speed to enquire farther of, and examine.

These are therefore to will and require you to take into your Custody the Persons of the said *William Pargiter* and *Samuel Danvers*, and them safely to keep Prisoners, till farther Order from this Board, or until by due Course of Law they shall be delivered.

Yet he the said *Sir Robert Berkley*, being desired to bail the said *Pargiter* and *Danvers*, remitted them, where they remained Prisoners, till the 9th of November last, or thereabouts; although the said *Jennings*, *Pargiter* and *Danvers* on all and every the said Returns, were clearly bailable by Law, and the Council of the said *Jennings*, *Pargiter* and *Danvers* offered in Court very sufficient Bail: And he the said *Sir Robert Berkley*, being one of the Justices of the Court of King's-Bench, denied to grant his Majesty's Writs of *Habeas Corpus* to very many others his Majesty's Subjects; and when he had granted the said Writs of *Habeas Corpus* to very many others his Majesty's Subjects; and on the Return no Cause appeared, or such only as was clearly bailable by Law; yet he remanded them, where they remained Prisoners very long: Which said deferring to grant the said Writs of *Habeas Corpus*, and Refusals and Delays to discharge Prisoners, or suffer them to be bailed, contained in this Article, are destructive to the Fundamental Laws of this Realm, and contrary to former Re-

solutions in Parliament, and to the Petition of Right, were well known to him, the said *Sir Robert Berkley*, and were resolved on and enacted when he was the King's Serjeant at Law, and Attendant in the Lords House in Parliament.

That whereas there was a Cause depending in the Court-Christian at *Norwich*, between *Samuel Clerk*, and *Booty Collard*, for two Shillings in the Pound for Tythes, for Rents, and Houses in *Norwich*; and the said *Collard* moved by his Council in the Court of King's-Bench, for a Prohibition to stay Proceedings in the Court-Christian at *Norwich*, and delivered into the said Court of King's-Bench his Suggestions, that the said Cause in the said Court-Christian, was only for Tythes for Rents of Houses in *Norwich*, which was determinable by the Common Law only; yet he the said *Sir Robert Berkley*, being one of the Justices of the said Court of King's-Bench, and sitting in the said Court, deferred to grant a Prohibition to the said Court-Christian in the said Cause, although the Council did move in the said Court many several Times and several Terms for a Prohibition, and he the said *Sir Robert Berkley* deferred to grant his Majesty's Writ of Prohibition to several other Courts on the Motions of divers others of his Majesty's Subjects, where the same by the Laws of this Realm ought to have been granted, contrary to the Laws of this Realm, and his own Knowledge.

All which Words, Opinions and Actions were so spoken and done by him the said *Sir Robert Berkley* traiterously and wickedly, to alienate the Hearts of his Majesty's liege People from his Majesty, to set a Division betwixt them, and to subvert the Fundamental Laws and established Government of his Majesty's Realm of *England*, for which they do impeach him the said *Sir Robert Berkley*, one of the Justices of the Court of King's-Bench of High Treason against our Sovereign Lord the King, his Crown and Dignity, and of the Misdemeanours abovementioned.

And the said Commons by Protestation, saving to themselves only the Liberties of exhibiting at any time hereafter, any other Accusation or Impeachment against the said *Sir Robert Berkley*, and also of replying to the Answer that he the said *Sir Robert Berkley* shall make to the said Articles, or any of them, or

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of offering Proof of the Premises, or any other Impeachments or Accusations that shall be exhibited by them, as the Case shall, according to the Course of Parliaments require, do pray, that the said Sir Robert Berkley, one of the Justices of the Court of King's-Bench, may be put to answer to all and every of the Premises; and that such Proceedings, Examinations, Trials, Judgments, and Executions may be upon every of them had and used, as is agreeable to Law and Justice.

Mr Pierpont making a Speech on the Delivery of these Articles, concluded; 'I am by Command of the House of Commons to desire of your Lordships, that the Proceedings against Sir Robert Berkley Knight, one of the Justices of his Majesty's Court of King's-Bench, may be put in as speedy a way of Trial, as the Course of Parliament will allow.'

The following Articles also were carried up by Mr Waller against Sir Francis Crawley, (viz.)

Articles against Sir Francis Crawley.

Articles of the House of Commons, in the Name of themselves, and of all the Commons of England, against Sir Francis Crawley, Knight, one of the Justices of his Majesty's Court of Common-Pleas, impeaching him as followeth:

I. That he about the Month of November, Anno Domini 1635, then being one of the Justices of the Court of Common Pleas, and having taken an Oath for the due Administration of Justice to his Majesty's liege People, according to the Laws and Statutes of this Realm, subscribed an Opinion in *hac Verba*.

[I am of Opinion, &c. as above mentioned.]

II. That in or about the Month of February, Anno Domini, 1636, then being one of the Justices of the said Court of Common Pleas, subscribed an extrajudicial Opinion, in Answer to Questions in a Letter from his Majesty in *hac Verba*,

[As before in Berkley's Charge.]

III. That he being then one of the Justices of the said Court of Common-Pleas, delivered an Opinion in the Exchequer Chamber against John Hampden, Esq; in the Case of Ship-Money, that he the said John Hampden upon the matter and substance of the Case, was chargeable with the Money then in Question; a Copy of which Proceedings and Judgment, the Commons of this present Par-

liament have already delivered to your Lordships.

IV. That he being then one of the Justices of the said Court of Common-Pleas, declared and published in the Exchequer-Chamber, and the Western Circuit, where he went Judge, That the King's Right to Ship-Money was so inherent a Right in the Crown, as an Act of Parliament could not take it away; and with divers malicious Speeches inveighed against, threatened and discountenanced such as refused to pay Ship-Money. All which Opinions and Judgments, contained in the first, second and third Articles, are destructive to the Fundamental Laws of this Realm, the Subjects Right and Property, and contrary to former Resolutions in Parliament, and to the Petition of Right, which said Resolutions and Petition of Right, were well known to him.

And the said Commons by Protestation, saving to themselves only the Liberties of exhibiting at any time hereafter, any other Accusation or Impeachment against the said Sir Francis Crawley; and also of replying to the Answer that he the said Sir Francis Crawley shall make unto the said Articles, or any of them, or of offering Proof of the Premises, or of any other of their Impeachments, or Accusations that shall be exhibited by them, as the Case shall (according to the Course of Parliament) require; do pray, that the said Sir Francis Crawley, one of the Justices of the said Court of Common-Pleas, may be put to answer to all and every the Premises; and that such Proceedings, Examinations, Trials and Judgments may be upon every one of them had and used, as is agreeable to Law and Justice.

The same Day, viz. July 6, 1641, Mr Edward Hyde carried up the following Articles against Sir Humphrey Davenport, viz.

Articles of the House of Commons, in the Name of themselves, and of all the Commons of England, against Sir Humphrey Davenport, Knight, Lord Chief Baron of his Majesty's Court of Exchequer, impeaching him as followeth.

Articles against Sir Humphrey Davenport.

I. That, whereas in the Month of October, in the fourth Year of his Majesty's Reign, the Farmers and Officers of the Custom-House having seized great Quantities of Currants, being the Goods of Samuel Vassal, Merchant, and having conveyed

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conveyed them into certain Store-Houses at the Custom-House, and detained them, because the said *Samuel Vassal* refused to pay an Imposition of five Shillings and six Pence upon every hundred Weight of the said Currants, pretended to be due upon, and demanded by the said Farmers and Officers on his Majesty's Behalf for the said Currants, whereas no such Imposition was due or payable for the same, but the said Imposition was, and is against the Laws of this Realm.

And whereas also in *Michaelmas* Term, in the said fourth Year of his Majesty's Reign, his Majesty's then Attorney General exhibited an Information by *English* Bill in the Exchequer, against the said *Samuel Vassal*, setting forth, That King *James* by his Letters Patents, dated *tertio Novembris*, in the second Year of his Reign did command the said Imposition of five Shillings and six Pence upon every hundred Weight of Currants should be demanded and received.

And that his Majesty that now is, by his Letters Patents, dated the 26th Day of *July*, in the second Year of his Reign, did by Advice of his Privy Council declare his Will and Pleasure to be, That Subsidies, Customs and Impost should be levied in such manner, as they were in the Time of King *James*, and the same, and the Farms thereof to continue until it might receive a settling by Parliament, and commanding the levying and receiving the same accordingly; and that the same *Samuel Vassal*, before the said first Day of *October*, then last before the said Information exhibited, did bring into the Port of *London* in Ships, four thousand six hundred thirty eight hundred Weight of Currants: *Richard Carmarthen*, Surveyor in the said Port of *London*, the said first Day of *October*, demanded of the said *Samuel Vassal* the said Imposition of five Shillings and six Pence, for every hundred Weight of the said Currants, and that the said *Samuel Vassal* refused to pay the said Imposition, and unjustly detained it from the King. To which Information the said *Samuel Vassal* appeared, and pleaded the Statute of *Magna Charta*, and the Statute *de Tallagio non concedendo*; and that he was a Subject born under the King's Allegiance, and a Merchant of *London* using that Trade; and that the said Sum of five Shillings and six Pence upon every hundred Weight of Currants, was and is *Malum Toletum*, and not *antiqua seu recta Consuetudo*, &c. and that it was

imposed without Assent of Parliament. To which Plea Mr Attorney General demurred in Law; and the said *Samuel Vassal* joined in Demurrer with him: And when the said Cause came to be argued, viz. in *Trinity* Term, in the sixth Year of his Majesty's Reign, the said Sir *Humphrey Davenport*, being then Lord Chief Baron of his Majesty's said Court of Exchequer, did, contrary to his Oath, and contrary to the Laws of this Realm, and to the great Impoverishment of the said *Samuel Vassal*, publickly refuse to hear the Council of the said *Samuel Vassal* to argue for him; and said, That the Case of the said *Samuel Vassal* would fall under the same Rule with the Case of one *Bates*, and therefore was already judged; and the Council of the said *Samuel Vassal* answering, that they had nothing to do with *Bates* his Case, but desired to argue for Mr *Vassal*: The said Sir *Humphrey Davenport* replied, That they knew the Opinion of the Court, and should be heard no farther; and said, that the King was in Possession, and that they (meaning the said Court of Exchequer) would keep him in Possession: And the said Sir *Humphrey Davenport* shortly after did, together with the rest of the Barons of the said Court of Exchequer, imprison the said *Samuel Vassal*, for not paying such Sums of Money as were pretended by the said Officers of the Custom-House to be due to his Majesty; and did delay the said *Samuel Vassal* from time to time from having Restitution of his said Goods, being often in Court moved thereto, with Intention to force the said *Samuel Vassal* to pay the said unlawful Imposition; and did also give his Opinion and Judgment upon the said Information for the King, and against the said *Samuel Vassal*, and by several Orders for that Purpose made, did continue the Possession of the said Goods in the King; and the said *Samuel Vassal* could never obtain any Restitution at all of his said Goods.

II. That whereas it was commanded to the Sheriff of the County of *York*, by Writ under the Seal of his Majesty's Court of Exchequer, dated *May* 16, in the seventh Year of his Majesty's Reign that now is, that he should distrain *James Maleverer*, Esq; to appear before the Barons of his Majesty's said Court of Exchequer, in the Octaves of the Holy Trinity then next following, to make Fine to the King for his Trespas and Contempt

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tempt, in not coming to the Presence of the King before the 31st of January, in the first Year of his said Majesty's Reign, to take upon him the Order of Knighthood, according to the Form of a Proclamation in that Behalf formerly made : At which Day of the said Octaves of the Holy Trinity, the said *James Maleverer* did appear, and pleaded to the said Writs ; that although his said Majesty, the said 31st Day of January, and for three Days next before the said 31st Day of January, was resident and remaining at his Palace at *Whitehall*, in the County of *Middlesex*, and that the said *James Maleverer*, the said 31st Day of January, and three Days next before the said 31st Day of January, was resident and remaining at *Ancliffe*, in the said County of *York*, which is distant from the said Palace of *Whitehall* the space of one hundred and eighty Miles; and that the said *James Maleverer*, the said 31st Day of January aforesaid, or at any time before, had no Lands nor Rents in his own Hands, or in the Hands of Feoffees to his Use, out of the said County of *York*, and that that Part of the said County of *York*, which is nearest to the said Palace of *Whitehall*, is distant from the said Palace of *Whitehall*, the space of one hundred and thirty Miles, and that no Proclamation, by Virtue of any Writ of Proclamation for the Appearance of any Persons whatsoever, to take the said Order of Knighthood, was made in any Part of the said County of *York*, before the 30th of January, in the said first Year of his Majesty's Reign; by reason whereof the said *James Maleverer* could not personally come to the Presence of his said Majesty, to take the said Order of Knighthood, before the said 31st Day of January, in the said first Year of his Majesty's said Reign; yet the said *James Maleverer* for his Fine in the Premises, did humbly submit himself to the said Court, and demanded to be discharged of the said Issues, returned and imposed upon him by reason of the Premises: Yet notwithstanding the said Plea and Submission of the said *James Maleverer*, and after the same was made as aforesaid, and entred upon Record in his Majesty's said Court of Exchequer, and the said Court moved for Stay of the Process, and Discharge of the Issues; the said Sir *Humphrey Davenport* being then Lord Chief Baron of the said Court of Exchequer, contrary to his Oath, and contrary to the Laws of this Realm, and to the

great impoverishing of the said *James Maleverer*, did, together with the rest of the then Barons of the said Court, refuse to impose any Fine whatsoever upon the said *James Maleverer*, and told him that the said Court had no Power to fine him; and that he must compound with certain Commissioners for that Purpose appointed. And did farther order and direct several other Writs of *Distringas*, to issue forth of his Majesty's said Court of Exchequer, under the Seal of the said Court, directed to the several high Sheriffs of the said County of *York*, whereby the said Sheriffs were commanded farther, to distrain the said *James Maleverer* to appear as aforesaid: Upon which said Writs of *Distringas*, several great and excessive Issues were returned upon the Lands of the said *James Maleverer*, amounting to the Sum of two thousand Pounds or thereabouts; a great Part whereof the said *James Maleverer* was inforced to pay: And in like manner, the said *Humphrey Davenport*, together with the rest of the then Barons of the said Court of Exchequer, did order and direct such and the like unjust and undue Proceedings: And the said Proceedings were had and made accordingly against *Thomas Meyser*, Esq; and against several other Persons, his Majesty's Subjects, in several Parts of this Realm, to the utter undoing of many of them.

III. That a Sentence of Degradation, being given to the High Commissioners of the Province of *York*, against *Peter Smart*, Clerk, one of the Prebends of the Church of *Durham*, for a Sermon by him formerly preached, against some Innovations in the Church of *Durham*, a Tryal was afterwards had, viz. in *August*, in the seventh Year of his said Majesty's Reign, before the said Sir *Humphrey Davenport*, Kt. then one of the Judges of Assizes, and *Nisi prius* for the County Palatine of *Durham*, concerning the Corps of the Prebend of the said Mr *Smart*, which was then pretended to be void by the said Sentence of Degradation, the said *Humphrey Davenport*, contrary to his Oath, and contrary to the Laws of this Realm, and to the Destruction of the said Mr *Smart*, upon reading the Writ de *Heretico Comburendo*, did, publicly upon the Bench, in the Presence of divers his Majesty's Subjects then attending, declare his Opinion to be, That the said Prebend's Place was void, and gave Directions to the Jury then at the Bar, to find accordingly: And being then informed, that although

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the said Mr *Smart* had been dead or deprived, yet the Profits of his Prebend had been due to his Executors 'till the *Michaelmas* following; the said Sir *Humphrey Davenport* then answered, 'That though the said Mr *Smart* was not dead, yet, if he had his Desert, he had been dead long ago, for he deserved to have been hanged for the said Sermon, and that he was as wicked a Man as any lived in the World, call him no more Mr *Smart*, but plain *Smart*.' And when the said Jury had found against the said Mr *Smart*, the said Sir *Humphrey Davenport*, in Scandal of his Majesty's Government and Justice, and of the Proceedings of his Majesty's Judges, did publicly as aforesaid, speak Words to this Effect, *That the said Jury had done well, and that the said Smart had no Remedy, save by Appeal to the King, and there he should find but cold Comfort; for the King would not go against his own Prerogative, upon which the Judges and High Commissioners did depend, and therefore would not contradict one another's Acts.*

IV. That the said Sir *Humphrey Davenport*, about the Month of November, Anno Domini 1635, then being Lord Chief Baron of his Majesty's Court of Exchequer, and having taken Oath for the due Administration of Justice to his Majesty's liege People, according to the Laws and Statutes of this Realm, subscribed his Name to an Opinion in *hæc verba*. [*I am of Opinion, &c. ut supra.*]

V. That in or about the Month of February, Anno Domini 1636. the said Sir *Humphrey Davenport*, then being Lord Chief Baron of the said Court of Exchequer, subscribed an extrajudicial Opinion, in answer to Questions in a Letter from his Majesty, in *hæc verba*.

[C. R. *When the Good and Safety of this Kingdom is concerned, &c. ut supra.*]

VI. That whereas an Action of Battery was brought by one *Richard Legge* against *Robert Hoblins*, to which the said *Robert Hoblins* pleaded Justification, *de son Assault de mesme*; and the said Cause came to Tryal, at the Assizes holden for the County of Gloucester, in Summer 1636, before the said Sir *Humphrey Davenport*, then one of the Justices of Assize, and *Nisi prius* for that County; At the said Tryal, the said *Robert Hoblins*, did begin to make Proof of his said Justification, and produced one *Robert Tilly* a Witness in the Cause, who proved, upon Oath, that the said *Richard Legge* did make the

first Assault upon the said *Robert Hoblins*; and that the Occasion thereof was, that the said *Richard Legge* and others, came upon the Lands then in Possession of the said *Hoblins*, and did take and drive away eighteen Cows of the said *Hoblins*, pretending they had a Warrant from the Sheriff to distrain the same, for forty Shillings, assessed upon the said *Hoblins* for Ship-Money: And when the said *Hoblins* (being present) endeavoured to hinder the said *Legge* and others, from taking away his said Cattle, the said *Legge* struck the said *Hoblins* with a Staff, who after defended himself: That upon the opening of the Matter, the said Sir *Humphrey Davenport* would not suffer the said *Hoblins* to produce any more Witnesses on his Behalf, (tho' the said *Hoblins* desired that other of his Witnesses then present and sworn, might be heard) nor his Council to speak for him: But being informed that the said *Hoblins*, (when Ship-Money was demanded of him) answered, *That he would not pay the same, because it was not granted by Parliament*, the said Sir *Humphrey Davenport*, did then, (openly in the Hearing of a great Number of his Majesty's liege People then assembled and attending the Court) in great Passion reprove the said *Hoblins*, and told him, *The King was not to call a Parliament to give him Satisfaction*: And did then and there also falsely and of purpose to prevent his Majesty's loving Subjects from the due and ordinary Course of Law, and contrary to his Oath and the Laws of the Realm, publish, declare and affirm, *That it was adjudged by all the Judges in England, that Ship-Money was due to the King*, and directed the Jury sworn in that Cause, to find a Verdict for the said *Richard Legge*: And the said Jury did accordingly, and gave him twenty Pounds Damages; and the said *Humphrey Davenport* did then also, without any Cause, imprison the said *Robert Hoblins*, and bound him to his good Behaviour.

VII. That whereas in the Month of April, Decimo Sexto Caroli, the Officers of the Custom-House, having seized a Ship of one *Samuel Warner* laden with Tobacco, being the Goods of the said *Warner*, the Bulk of the said Ship not being broken, and no Information exhibited for the King, according to the Course of the Exchequer for any Duty, the Barons were moved, that the said Ship might be restored to the Proprietors; giving Security to pay such Duties as did belong to

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to the King : But upon the Allegation of the King's Attorney, that there needed no Information because there was no Penalty ; the said Sir *Humphrey Davenport*, being then Lord Chief Baron of his Majesty's Court of Exchequer, together with the rest of the then Barons of the said Court, did, contrary to his Oath, and contrary to the Laws of this Realm, deny the Restitution of the said Ship, unless all the Duties demanded by the Farmers of the Custom-House, were first paid.

Hereupon the said *Warner* brought an Action of Trover in the Office of Pleas in the Exchequer, against the said Officers that seized his Ship and Goods : Whereupon the King's Attorney General exhibited an Information by *English Bill* in the Exchequer - Chamber against the said *Warner*, setting forth, That Customs and Subsidies upon Merchandize, were a great Part of the King's Revenue, and payable to him : And that the same Ship was seized for Non-Payment of the aforesaid Duties ; notwithstanding that the said *Warner*, then Proprietor, prosecuted the Officers upon a Suit of Law, and prays that he may answer the said Information, before any farther Proceedings be had at Law.

Thereupon the said Sir *Humphrey Davenport*, together with the then Barons of the said Court of Exchequer, ordered that the Proprietor moving for the Delivery of the said Goods, should first answer to the Information : After which the said *Warner* demurred to the said Information, in regard no Title for any certain Duty was set forth by the Information ; which Demurrer yet remains not over-ruled ; but the said Sir *Humphrey Davenport*, with the said other Barons, without over-ruling the Demurrer, ordered, because *Warner* had put in a Demurrer, and not answered to the said Information, that he should not proceed upon the Action of Trover. The Proprietor being thus prevented of his Remedy by Action at Law, sued forth a Replevin, and upon Pretence of viewing the said Goods, caused them to be brought forth out of a Cellar hired by a Deputy to the Farmers for that Use, and being brought forth, they were taken by the Sheriff of London, by Virtue of the said Replevin ; and upon Oath made of the Manner of the taking as aforesaid, before the Barons, and upon view of the Precedent in *Roll's Case*, the said Sir *Humphrey Davenport*, with the said other Barons, adjudged that the said Goods

were not repleviable, and granted an Injunction to maintain Possession of them as they were before.

And the said House of Commons, by Protestation, saving to themselves only the Liberties of exhibiting at any time hereafter, any other Accusation or Impeachment against the said Sir *Humphrey Davenport*, and also of replying to the Answer that he the said Sir *Humphrey Davenport* shall make unto the said Articles, or any of them, or of offering them Proof of the Premises, or any of their Impeachments or Accusations that shall be exhibited by them, as the Case shall (according to the Course of Parliaments) require, do pray that the said Sir *Humphrey Davenport*, Lord Chief Baron of his Majesty's Court of Exchequer, may be put to answer all and every the Premises, and that such Proceedings, Examinations, Tryals and Judgments may be upon every of them had and used, as is agreeable to Law and Justice.

The following Articles also were carried up against Sir *Richard Weston*, viz.

Articles of the House of Commons, in the Name of themselves, and of all the Commons of England, against Sir Richard Weston, Kt. one of the Barons of his Majesty's Court of Exchequer, impeaching him as followeth.

Articles against Sir R. Weston.

I. That the said Sir *Richard Weston*, about the Month of November, Anno Domini 1635, then being one of the Barons of his Majesty's Court of Exchequer, and having taken an Oath for the due Administration of Justice to his Majesty's liege People, according to the Laws and Statutes of this Realm, subscribed his Name to an Opinion, *in hac verba*. [*I am of Opinion, &c. ut supra, in Sir Robert Berkley's Charge.*]

II. That in or about the Month of February, Anno Domini 1636, the said Sir *Richard Weston*, (being then one of Barons of his Majesty's Court of Exchequer) subscribed an extrajudicial Opinion, in answer to Questions in a Letter from his Majesty, *in hac verba*.

[*When the Good and Safety of the Kingdom in general, is concerned, &c. ut supra.*]

III. That the said Sir *Richard Weston*, (being then one of the Barons of his Majesty's Court of Exchequer) did deliver his Opinion and Judgment in the Exchequer Chamber, against *John Hampden*,

1640, 1641. *den, Esq; in the Case of Ship-Money ;*
16, 17 C. I. *[That be the said John Hampden, &c. as*
in Judge Crawley's Charge.]

IV. That whereas in the Month of April, 16 Caroli, the Officers of the Custom-House, having seized a Ship of one Samuel Warner's, laden with Tobacco, &c. *[As in the Impeachment of the Chief Baron.]*

The following Articles also were carried up against Sir Thomas Trevor, viz.

Articles against Sir T. Trevor.

Articles of the House of Commons, in the Name of themselves, and of all the Commons of England, against Sir Thomas Trevor, Kt. one of the Barons of his Majesty's Court of Exchequer, impeaching him as followeth.

I. That in or about November, 4 Caroli, divers Goods and Merchandizes (whereof John Rolls, George Moor and others, Merchants of London, were Proprietors) being seized and conveyed into certain Store-Houses at the Custom-Houses, by Sir John Worstenham, Abraham Dawes, and others, the Farmers and Officers of the said Customs, and by them there detained, because the said Proprietors refused to pay the Subsidy of Tonnage and Poundage pretended to be due, and demanded by the said Farmers and Officers on his Majesty's Behalf, for the said Merchandizes ; whereas no such Subsidy or Duty of Tonnage and Poundage was due or payable for the same, no Subsidy of Tonnage and Poundage having been granted by Parliament to his Majesty. The said John Rolls, and other the Proprietors of the said Goods, having, by reason of such unlawful Seizure and Detainure as aforesaid, sued forth one or more Writ or Writs of Replevin directed to the Sheriffs of London, (being the proper Remedy provided by the Law, to regain the Possession of Goods taken, and with-held from the Owners contrary to Law) the said Sir Thomas Trevor, Kt. then and yet one of the Barons of his Majesty's said Court of Exchequer, together with the rest of the then Barons of the said Court, upon Information to them given, that the said Proprietors or some of them, had sued forth, and did prosecute such Writ or Writs of Replevin, for the Delivery of the said Goods, did order an Injunction under Seal of the said Court, to issue forth, directed to the Sheriffs of London, commanding them thereby, not to execute the said Writ or Writs of Replevin, or any

like Writ hereafter to be sued forth, by any Person or Persons, for the Delivery of any Goods in the like nature detained : And did declare and order, publickly in the said Court of Exchequer, that the said Goods, by Law, were not replevissable : Alledging for Cause, that the said Goods were in the King's own Possession ; whereas the same did not judicially appear to them, and they did well know, that the said Goods, were at that time, in the Possession of the Farmers and Lessees of the said Customs ; and no lawful Cause to them appearing or suggested, of the taking and detaining of the said Goods. Which Injunction and Declaration so granted and made, were and are against the Laws of the Realm, and in Subversion of the common Right and Remedy of the Subject, for regaining the Possession of his Goods, being taken and with-holden from him without lawful Cause.

That the Sheriffs of London for the time being served with the same Injunction, did forbear to execute the said Writ or Writs of Replevin : By means whereof, the said Goods continued so detained as aforesaid, contrary to Law, from the said Month of November, until the Month of June next following.

That the said Sir Thomas Trevor, and other the Barons aforesaid, knowing the said Goods to be unlawfully seized and detained for the pretended Duties and Subsidy of Tonnage and Poundage, whereas no such was payable by Law, did from time to time delay the respective Proprietors, from having Restitution of their said Goods, being often in Court moved therein, with Intention thereby, to force the said Proprietors (by wanting their Goods, and the Use thereof) to pay all such Sums, as the said Officers of the Customs pretended to be due to his Majesty.

To the End aforesaid, the said Sir Thomas Trevor, and the said other Barons, refused to accept of any Security to be given by the said Proprietors, upon Restitution had of their Goods, for Payment of all such Duties as should be made appear to be payable to his Majesty, in such Manner as the said Barons should direct.

That the said Sir Thomas Trevor, and other the Barons aforesaid, knowing the said Sums demanded on his Majesty's Behalf, by the said Officers of the Customs, not to be due by Law, did refuse to order Restitution of any Part of those Goods

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Goods so detained as aforesaid, to the Proprietors thereof, unless the said Proprietors would deposite all such Sums of Money as the said Officers respectively demanded of them, for pretended Duties to his Majesty; and the said Proprietors refusing to deposite the said Sums demanded, the said *Thomas Trevor*, and other Barons aforesaid, did order the said Officers to retain double the Value of the Sums by them demanded, for pretended Duties to his Majesty, and to restore the Residue; the said *Sir Thomas Trevor*, and other the said Barons, then knowing that the pretended Sums demanded by the said Officers were not by Law due or payable to his Majesty.

II. That in or about *January, 4 Car.* the said Officers having seized several Merchandizes of the Goods of *Richard Chambers*, Merchant, upon the Pretence aforesaid, did detain the same, and the said *Chambers* prosecuting by Plaint, to have his said Goods replevied, the said *Sir Thomas Trevor*, together with the said other Barons, did in like Manner in the said Court of Exchequer, declare the said *Chambers's* Goods not to be repleviable, and enjoined the Sheriffs of *London* to proceed no farther therein, no Cause to them appearing of such Seizure or Detainure. And the said *Sir Thomas Trevor*, and other the Barons of the said Court, refused to order the Delivery of the said *Chambers's* Goods upon good Security offered by him, to pay all such Sums as should be made appear to be due; and for which the said Goods were pretended to be detained; and the said Barons being often moved in Court therein, did refuse to order Restitution of any Part of the said *Chambers's* Goods, until the 23d of *November, 5 Car.* and then ordered that the said Officers should detain in their Hands, double the Value of the Sums by them demanded, and Restitution of the Residue to be made to the said *Chambers*, no Cause of detaining any Part of the said Goods to them in any wise appearing.

III. That whereas in the Month of *October*, in the fourth Year of his said Majesty's Reign, the Farmers and Officers of the Custom-House having seized great Quantities of Currants, being the Goods of *Samuel Vassal*, Merchant, &c. [*As before in the other Charge; and also the Business of Maleverer, as before.*]

IV. That the said *Sir Thomas Trevor*, about the Month of *November, 1635*,

then being one of the Barons of his Majesty's Court of Exchequer, and having taken an Oath for the due Administration of Justice to his Majesty's liege People, according to the Laws and Statutes of this Realm, subscribed his Name to an Opinion, *in hac verba*. [*I am of Opinion, &c. ut supra.*]

V. That in or about the Month of *February, Anno Dom. 1636.* (then being one of the Barons of the said Court of Exchequer) he subscribed an extrajudicial Opinion, in answer to Questions in a Letter from his Majesty, *in hac verba*.

[*C. R. When the Good and Safety of the Kingdom in general is concerned, ut supra.*]

VI. That the said *Sir Thomas Trevor* (being then one of the Barons of his Majesty's Court of Exchequer) did deliver his Opinion and Judgment in the Exchequer-Chamber, against *John Hampden*, Esq; in the Case of Ship-Money. That he the said *John Hampden*, upon the Matter and Substance of the Case, was chargeable with the Money then in Question, a Copy of which Proceedings and Judgment the Commons in this present Parliament have already delivered to your Lordships.

VII. That whereas in the Month of *April, 16 Car.* the Officers of the Custom-House, having seized a Ship of one *Samuel Warner*, laden with Tobacco, &c. [*As before.*]

And the said House of Commons by Protestation, saving to themselves only the Liberties of exhibiting at any time hereafter any other Accusation or Impeachment against the said *Sir Thomas Trevor*, and also of replying to the Answer that he the said *Sir Thomas Trevor* shall make unto the said Articles, or any of them, or of offering Proof of the Premises, or any of their Impeachments or Accusations that shall be exhibited by them, as the Case shall (according to the Course of Parliaments) require, do pray, that the said *Sir Thomas Trevor*, one of the Barons of his Majesty's Court of Exchequer, may be put to answer to all and every the Premises; and that such Proceedings, Examinations, Tryals and Judgments may be upon every of them had and used, as is agreeable to Law and Justice.

I do not meet with any farther Proceedings against the Judges, until *September 12, 1643.* when Judge *Berkley* being brought to the Bar of the House of Peers, the Commons went up with their Speaker

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and demanded Judgment against him: Whereupon the Lord Gray of Wark, Speaker of the House of Peers, *pro tempore* declared, 'That whereas the Commons had formerly impeached the Prisoner at the Bar, upon sundry Articles of High Treason, and other high Crimes and Misdemeanours, and that by sufficient Proofs, he was by their Lordships found guilty of sundry high Misdemeanours, that House had at that time determined to proceed to Judgment only upon that Part of his Charge touching his extrajudicial Opinions in the Case of Ship-Money, and to take farther Time upon those other Articles alledged against him.' And then after reading his Charge touching the said Business of Ship-Money, Judgment was pronounced against him.

I. That the said Judge Berkley be fined two thousand Pounds, and pay the same to the Treasurers of Guild-Hall, within six Weeks next, to be disposed of as both Houses shall appoint, and upon the Default, the same to be levied on his Estate.

II. That he be for the present disabled and made incapable for the future of all

Honours, and from bearing Office in any Court of Judicature in this Kingdom, or any other Place of Trust.

III. That he stand committed to the Tower, during the Pleasure of the House.

The Lord Clarendon observes that Judge Berkley who had been committed to the Tower, soon after the beginning of the long Parliament in 1641, and since the War commenced permitted to sit as sole Judge of the King's Bench one whole Term, and now fined by the House of Peers twenty thousand Pounds, on the Payment of half that Sum down, was forgiven the Remainder, and restored to his Liberty. Baron Trevor, who was fined for the same Offence, was still permitted to continue in his Office wherein he had committed the Misdemeanour, on the Payment of ten thousand Pounds more, to Persons appointed to receive it by the Commons. Which since all Fines are due to the King alone (says the noble Historian) could not be disposed off but by him, and this Misapplication of their Fines, was thought by many, a greater Crime than that for which these Judges were censured.

Proceedings against the Lord KIMBOLTON, a Member of the House of Peers, JOHN PYM, DENZIL HOLLIS, Sir ARTHUR HASLERIG and WILLIAM STRODE, Members of the House of Commons, for High Treason, together with the Proceedings of the Commons against Sir EDWARD HERBERT the Attorney-General. January Anno 1641, 17 CAR. I.

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ON Monday January the third, the Lord Keeper acquainted the House of Lords, That he was commanded by the King to let their Lordships know, that his Majesty had given Sir Edward Herbert, his Attorney-General, Command to acquaint their Lordships with some Particulars from him. And Mr Attorney approaching to the Clerk's Table, spoke as followeth.

My Lords,

'The King hath commanded me to tell your Lordships, That divers great and treasonable Designs and Practices against him and the State have come to his Majesty's Knowledge, for which his Majesty hath given me Command in his Name to accuse, and I do accuse by delivering unto your Lordships these Articles in Writing, which I received of

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of his Majesty, the six Persons therein named, of High Treason, the Heads of which Treason are contained in the said Articles, which I desire may be read.

The House commanded the said Articles to be read, which were as followeth.

Articles against the 5 Members.

Articles of High Treason and other High Misdemeanors, against the Lord Kimbolton, Mr Donzill Hollis, Sir Arthur Haslerig, Mr John Pym, Mr John Hampden, and Mr William Strode.

I. That they have traiterously endeavoured to subvert the fundamental Laws and Government of the Kingdom of England, to deprive the King of his Royal Power, and to place in Subjects an arbitrary and tyrannical Power, over the Lives, Liberties and Estates of his Majesty's liege People.

II. That they have traiterously endeavoured by many foul Aspersions upon his Majesty and his Government, to alienate the Affections of his People, and to make his Majesty odious to them.

III. That they have endeavoured to draw his Majesty's late Army to Disobedience to his Majesty's Command, and to side with them in their traiterous Designs.

IV. That they have traiterously invited and encouraged a foreign Power to invade his Majesty's Kingdom of England.

V. That they have traiterously endeavoured to subvert the Rights and the very Being of Parliaments.

VI. That for the compleating of their traiterous Designs, they have endeavoured so far as in them lay, by Force and Terror, to compel the Parliament to join with them in their traiterous Designs; And to that End, have actually raised and countenanced Tumults against the King and Parliament.

VII. And that they have traiterously conspired to levy, and actually have levied War against the King.

Then Mr Attorney said, That he was farther charged to desire on his Majesty's Behalf;

I. That a select Committee, under a Command of Secrecy, may be appointed to take the Examination of such Witnesses as the King will produce in this Business, as formerly hath been done in

Cases of like Nature, according to the Justice of this House.

II. Liberty to add and alter, if there should be Cause.

III. That their Lordships would take Care for the Securing of the Persons, as in Justice there should be Cause.

The Lord Kimbolton being present in the House stood up, and offered to obey whatsoever the House should order; but prayed, that as he had a publick Charge, he might have a publick Clearing.

The Lord Steward, Lord Chamberlain, Earl of Bath, Earl of Southampton, Earl of Warwick, Earl of Bristol, Earl of Holland, with the Assistance of Mr Serjeant Whitfield, and Mr Serjeant Glanville, were appointed a Committee, to consider Precedents and Records touching the Regularity of this Accusation; Whether there have ever been any such Proceedings before in this House? Whether such an Accusation may be brought by the Attorney General into this House against a Peer? &c.

The House of Peers sent a Message to the Commons (who were then in Debate of his Majesty's Answer, concerning their Desire of a Guard) to acquaint them, That some of their Members were accused in the Lords House, of High Treason, by the King's Attorney General.

At the same time, Information was also brought them, that several Persons were sealing up the Trunks, Doors and Papers, belonging to Mr Pym and Mr Hollis, and afterwards of the other accused Members; whereupon it was ordered by the House of Commons, that the Serjeant attending this House, shall have Power to break open the said Doors and the Seals upon the Trunks, &c. and the Speaker to sign a Warrant to apprehend the said Persons: And likewise they passed this following Order.

Die Luna, 3 Jan. 1641.

It is this Day ordered upon the Question by the Commons House of Parliament, That if any Persons whatsoever shall come to the Lodgings of any Member of this House, and there do offer to seal the Trunks, Doors or Papers of any Member of this House, or to seize upon their Persons, that then such Members shall require the Aid of the Constable, to keep such Persons in safe Custody

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Custody till this House do give farther order. And this House doth farther declare that, if any Person whatsoever shall offer to arrest or detain the Person of any Member of this House, without first acquainting this House therewith and receiving farther order from this House, that it is lawful for such Member or any Person to assist him, and to stand upon his and their Guard of Defence, and to make Resistance according to the Protestation taken to defend the Privileges of Parliament.

The five Members came into the House on the 4th of *January*, after Dinner in obedience to the Order and Injunction of the House the Day before to give their Attendance upon the House *de Die in Diem*, and their Appearance was entred in the Journal.

They were no sooner sat in their Places, but the House was informed by one Captain *Langrish*, lately an Officer in Arms in *France*, that he came from among the Officers and Soldiers at *White-Hall*, and understanding by them, that his Majesty was coming with a Guard of Military Men, Commanders and Soldiers, to the House of Commons; he passed by them with some difficulty to get to the House before them, and sent in Word how near the said Officers and Soldiers were come: Whereupon a certain Member of the House having also private Intimation from the Countess of *Carlisle*, Sister to the Earl of *Northumberland*, that Endeavours would be used this Day to apprehend the five Members, the House required the five Members to depart the House forthwith, to the end to avoid Combustion in the House, if the said Soldiers should use Violence to pull any of them out: To which Command of the House, four of the said Members yielded ready Obedience, but Mr *Strode* was obstinate, till Sir *Walter Earle* (his ancient Acquaintance pulled him out by Force) the King being at that time entring into the *New-Palace Yard* in *Westminster*: And as his Majesty came through *Westminster-Hall*, the Commanders, Reformadoes, &c. that attended him made a Lane on both sides the Hall (through which his Majesty passed and came up the Stairs to the House of Commons) and stood before the Guard of Pensioners, Halberdeers (who also attended the King's Person) and the Door of the House of Commons being thrown open his Majesty entred the House, and as he

passed up towards the Chair, he cast his Eye on the Right-hand near the Bar of the House, where Mr *Pym* used to sit, but his Majesty not seeing him there (knowing him well) went up to the Chair and said, *By your Leave (Mr Speaker) I must borrow your Chair a little; whereupon the Speaker came out of his Chair and his Majesty stepped up into it: After he had stood in the Chair a while, casting his Eye upon the Members as they stood up uncovered, but could not discern any of the five Members to be there, nor indeed were they easy to be discerned (had they been there) among so many bare Faces all standing up together.*

Then his Majesty made this Speech.

Gentlemen,

'I am sorry for this occasion of coming unto you: Yesterday I sent a Serjeant at Arms upon a very important occasion, to apprehend some that by my Command were accused of High Treason; whereunto I did expect Obedience and not a Message. And I must declare unto you here, that albeit no King that ever was in *England*, shall be more careful of your Privileges, to maintain them to the uttermost of his Power, than I shall be, yet you must know that in Cases of Treason, no Person hath a Privilege; and therefore I am come to know if any of these Persons that were accused are here: For I must tell you Gentlemen, that so long as these Persons that I have accused (for no slight Crime but for Treason) are here, I cannot expect that this House will be in the right way that I do heartily wish it, therefore I am come to tell you that I must have them wheresoever I find them. Well since I see all the Birds are flown, I do expect from you that you shall send them unto me as soon as they return hither. But I assure you on the Word of a King, I never did intend any Force, but shall proceed against them in a legal and fair way, for I never meant any other.

'And now since I see I cannot do what I came for, I think this no unfit occasion to repeat what I have said formerly; that whatsoever I have done in Favour, and to the good of my Subjects, I do mean to maintain it.

'I will trouble you no more, but tell you I do expect as soon as they come to the House you will send them to me, otherwise

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' otherwise I must take my own Course
' to find them.'

When the King was looking about the House, the Speaker standing below by the Chair, his Majesty asked him, whether any of these Persons were in the House? Whether he saw any of them? And where they were? To which the Speaker falling on his Knee thus answered.

May it please your Majesty,

' I have neither Eyes to see, nor Tongue
' to speak in this Place, but as the House
' is pleased to direct me, whose Servant I
' am here, and humbly beg your Ma-
' jesty's Pardon, that I cannot give any
' other Answer than this to what your
' Majesty is pleased to demand of me.'

The King having concluded his Speech, went out of the House again, which was in great disorder, and many Members cried out aloud, so as he might hear them, *Privileges! Privileges!* and forthwith adjourned till the next Day at one of the Clock *January 5.*

The Commons sent Mr *Piennes* with a Message to the Lords, to give them Notice of the King's coming Yesterday, and that they conceived it a high and great Breach of Privilege; and to repeat their Desires their Lordships would join with them in a Petition to the King, that the Parliament may have a Guard to secure them as shall be approved of by his Majesty and both Houses, and also to let them know, that they have appointed a Committee to sit at *Guild-Hall, London*, and have also appointed the Committee for the *Irish* Affairs to meet there.

Then falling into farther Debates about Yesterdays Transactions, they passed the following order:

Die Mercurij 5 January.

Whereas his Majesty in his Royal Person Yesterday being the 4th of *January 1641*, did come to the House of Commons, attended with a great Multitude of Men armed in a Warlike manner with Halberts, Swords and Pistols, who came up to the very Door of the House, and placed themselves there, and in other Places and Passages near to the House, to the great Terror and Disturbance of the Members thereof then sitting, and according to their Duty in an orderly and peaceable manner, treating of the great Affairs of both Kingdoms of *England*

and *Ireland*, and his Majesty having placed himself in the Speaker's Chair, did demand the Persons of divers Members of the House to be delivered unto him.

It is this Day declared by the House of Commons, that the same is a high Breach of the Rights and Privileges of Parliament, and inconsistent with the Liberty and Freeborn Members thereof, and therefore this House doth conceive they cannot with the Safety of their own Persons or Indemnity of the Rights and Privileges of Parliament, sit here any longer without a full Vindication of so high a Breach, and sufficient Guard wherein they may confide, for which both Houses jointly, and this House by itself, have been humble Suitors to his Majesty, and cannot yet obtain.

The same Day his Majesty was also pleased to go into *London*, with his usual Attendance, and in his Passage some People did cry out aloud, *Privileges of Parliament? Privileges of Parliament?* And one *Henry Walker*, an Ironmonger and Pamphlet-Writer, threw into his Majesty's Coach a Paper wherein was written *To your Tents O Israel*; for which he was committed, and afterwards proceeded against at the Sessions.

His Majesty being arrived at *Guild-Hall*, and the Common-Council assembled, he made this Speech to them.

Gentlemen,

' I come to demand such Persons as I
' have already accused of High Treason,
' and do believe are shrowded in the City.
' I hope no good Man will keep them
' from me, their Offences are Treason
' and Misdemeanours of an high Nature.
' I desire your loving Assistance herein,
' that they may be brought to a legal
' Tryal.

' And whereas there are divers Sus-
' picions raised that I am a Favourer of
' the Popish Religion, I do profess in the
' Name of a King, that I did and ever
' will, and that to the utmost of my
' Power, be a Prosecutor of all such as
' shall any ways oppose the Laws and
' Statutes of this Kingdom, either Papists
' or Separatists; and not only so, but I
' will maintain and defend the true Pro-
' testant Religion, which my Father did
' profess, and I will continue in it during
' Life.'

To which I dont find the Common-Council made any Answer, but having entertained his Majesty at Dinner, he

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returned

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returned to *White-Hall*; however they presented a Petition to his Majesty two or three Days afterwards, desiring the Tower might be put in such Hands as the Parliament could confide in, that the Houses might have Guards for their Security at *Westminster*, and that the five Members might not be restrained of their Liberty or their Privileges invaded.

January 8. The King published a Proclamation, declaring, that he had accused the Lord *Kimbolton*, and the five Members of High Treason; commanding all Officers and Magistrates to apprehend them and commit them to the Tower.

On the other Hand *January 10.* Mr *Glyn* reported to the Grand Committee a Resolution of the Committee which sat at *Grocers-Hall* in the City, viz.

That the publishing of several Articles purporting a Form of a Charge of High Treason against the Lord *Kimbolton*, one of the Members of the Lords House, and against Mr *Hollis*, &c. Members of the House of Commons, by Sir *William Killigrew*, Sir *William Fleming*, and others in the Inns of Court and elsewhere, in the King's Name, is a high Breach of the Privileges of Parliament, a great Scandal to his Majesty and his Government, a seditious Act manifestly tending to the Subversion of the Peace of the Kingdom, and Injury and Dishonour of the said Members, there being no legal Charge or Accusation against them.

That the Privileges of Parliament and the Liberty of the Subject so violated and broken cannot be fully and sufficiently vindicated, unless his Majesty will be graciously pleased to discover the Names of those Persons who advised his Majesty to the Sealing of the Chambers and Studies of the said Members, to send a Serjeant at Arms to the House of Commons to demand the said Members, to issue several Warrants under his Majesty's own Hand to apprehend the said Members; his Majesty coming thither in his own Royal Person; the publishing of the said Articles and printed Papers in the Frame of a Proclamation against the said Members (in such manner as is before declared) to the end such Persons may receive Condign Punishment.

On the eleventh of *January* in the Afternoon, the House according to Adjournment being again to meet, the Com-

mittee, together with the Lord *Kimbolton* and five of the Members, about one of the Clock took Water at the three Cranes, attended with thirty or forty long Boats with Guns, Flags, &c. and a great Number of Citizens and Seamen in other Boats and Barges, and so they were conveyed to *Westminster*, some of the Train-Bands marching at the same time by Land to be a Guard about the two Houses.

The next Day his Majesty sent them the following Message.

His Majesty taking Notice, that some conceive it disputable, whether his Proceedings against the Lord *Kimbolton*, Mr *Hollis*, Sir *Arthur Haslerig*, Mr *Pym*, Mr *Hampden*, and Mr *Strode* be legal and agreeable to the Privileges of Parliament; and being very desirous to give Satisfaction to all Men in all matters that may seem to have relation to Privilege, is pleased to wave his former Proceedings, and all Doubts by this means being settled, when the Minds of Men are composed, his Majesty will proceed thereupon in an unquestionable way; and assures his Parliament, that upon all Occasions he will be as careful of their Privileges, as of his Life or his Crown.

Two Days afterwards the King sent a Message to the two Houses, acquainting them, That he waved the Proceedings against the five Members; That he had never any Intention to violate their Privileges; and in Case any Doubt of their Privileges still remained, he would be advised by his Parliament, in Confidence they would now lay aside their Fears and Jealousies.

But the Commons were so far from being satisfied with these Messages, that they caused Sir *Edward* to be examined before the Lords upon the following Questions, to which are annexed his Answers.

Quest. I. Whether did you contrive, frame or advise the said Articles, or any of them?

Answer. I will deal ingenuously and freely, and shall say the same which before I did to your Lordships: I need no long time to answer this. I did none of these three, neither contrive, frame, nor advise these Articles, or any of them, and will be content to die if I did it.

Question II. Whether do you know the Truth of the said Articles, or any of them

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in your own Knowledge, or by Information

Ans. I do know nothing of my own Knowledge of the Truth of this, nor of any particular, nor have heard by Information: This I speak upon the Truth of an honest Man, and nothing was ever said to me of this, but by my Master the King.

Quest. III. Whether will you undertake to make good the said Articles, or any of them, when you shall be thereunto called by due Course of Law?

Ans. By my former Expression, you may discern what Answer I can make to this; I cannot undertake to make one Tittle good in them, otherwise than my Master shall command me and enable me; for of myself I cannot nor will not, no more than one that never heard of them.

Quest. IV. From whom receiv'd you these Articles, and by whose Direction and Advice did you exhibit them?

Ans. It was by my Master the King his express Command I did exhibit them, from his Hand I did receive them.

Quest. 5. Whether had you any Testimony or Proof of these Articles before the exhibiting of them?

Ans. For the exhibiting of these Articles, I received his Majesty's Command.

To which Answer Mr Serjeant *Wild* replied, *The House of Commons desires you to answer, whether you had any Proof or Testimony, or any Information of any Proof of these Articles? they in no kind desired to know what you had.* To this Mr Attorney answered, *There is nothing in the World but I shall be most ready to answer to; but this I desire time to consider of, in regard of a Trust between a Master and a Servant.*

Die Sab. 15 Jan. 1641.

It is resolved by the House of Commons, since the said Answer of Mr Attorney General, that he had broken the Privilege of Parliament, in preferring the said Articles; and that the same is illegal, and he criminous for so doing; and that a Charge be sent up to the Lords in the Name of the House of Commons against Mr Attorney General, to have Satisfaction for this great Scandal and Injury to the Members thereof, unless by *Thursday* next he bring in his Proof, and make good (if he can)

the said Articles against the said Persons, or any of them.

The Impeachment of Sir Edward Herbert, Knight, the King's Attorney General.

That the said Sir Edward Herbert, Kt. his Majesty's Attorney General sworn, did, Jan. 3. 1641, contrary to his Oath and the Duty of his Place, falsely, scandalously and maliciously advise, frame, and publish certain false and scandalous Articles of High Treason against the Lord Kimbolton, one of the Members of the House of Peers in the Parliament, Denzil Hollis, Esq; Sir Arthur Haslerig, Baronet, John Pym, John Hampden and William Strode, Esqrs. being then, and yet Members of the House of Commons in Parliament, which Articles follows;

That they have traiterously endeavoured, &c. (As before the said Articles are set down) And the said Sir Edward Herbert, the said 3d of January, did falsely, unlawfully and maliciously exhibit the said Articles unto the House of Peers in Parliament, and caused the same to be entered into the Clerk's Books of the said House, intending and endeavouring thereby falsely, unlawfully and maliciously to deprive the said Houses of their said several Members, and to take away their Lives, Estates and good Names. All which Doings of the said Attorney, and every of them, were and are high Breaches of the Privileges of Parliament, tending to Sedition, and to the utter Subversion of the Fundamental Rights and Being of Parliaments, the Liberty of the Subject, and to the great Scandal and Dishonour of his Majesty, &c. For which high Crimes and Misdemeanours the said Commons, saving to themselves the Liberty of exhibiting any farther, or other Impeachment or Accusation against the said Sir Edward Herbert do Impeach him, and do pray, that he may be put to answer the Premises in the Presence of the Commons.

The Answer of Sir Edward Herbert, his Majesty's Attorney General, to the Impeachment exhibited against him by the honourable House of Commons in this present Parliament.

The said Defendant, saving to himself now, and at all Times hereafter, all just Exception

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The Attorney General Impeached.

The Answer of the Attorney General.

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Exception to the said Impeachment, as the same is charged, for Answer saith and acknowledgeth, 'That he is, 'and the 3d Day of *January* last past 'was his Majesty's Attorney General 'sworn; But whereas he is charged with 'the malicious, false and scandalous advising and contriving the Articles in the 'said Impeachment mentioned, he saith, 'That he was, and is so far from any 'Malice, Falshood or Scandal in the advising and contriving of the same, or any 'of them, that he did not at all advise or 'contrive the said Articles or any of them, 'nor ever knew or heard of them or any 'of them, until he received them from 'his Majesty's Hands the said 3d Day of '*January* last past, ready ingrossed in 'Paper.

'And as to that Part of the said Impeachment, which chargeth this Defendant with the exhibiting of the said Articles to this honourable House, he saith, That upon, the said 3d Day of '*January*, he repaired to his Majesty 'by his Command, who then delivered 'unto this Defendant a Paper, containing 'the Articles in the said Impeachment mentioned, and did command him in 'his Majesty's Name to acquaint this 'honourable House, That divers great 'and treasonable Designs and Practices 'against his Majesty and the State, are 'come to his Majesty's Knowledge, for 'which his Majesty commanded this 'Defendant in his Majesty's Name to 'accuse six Members in the said Paper 'mentioned, of High Treason and other 'high Misdemeanours, by delivering that 'Paper to your Lordships, and to desire 'to have it read; and farther to desire in 'his Majesty's Name, that a select Committee of Lords might be appointed to 'take the Examinations of such Witnesses 'as his Majesty should produce, as formerly had been done in cases of like 'Nature, according to the Justice of this 'House; and that Committee to be under 'a Command of Secrecy as formerly; 'and farther in his Majesty's Name to 'ask Liberty to add and alter, if there 'should be cause, according to Justice; 'and likewise that your Lordships would 'take care of the securing of the said 'Persons, as in Justice there should be 'cause: And according to his Majesty's 'said Command, this Defendant did come 'to this honourable House the said 3d Day 'of '*January*, and then after the Right 'Honourable *Edward Lord Littleton*,

'Lord Keeper of the Great Seal of *England*, had declared to this honourable 'House, that he was commanded by his 'Majesty to let your Lordships know, 'that his Majesty had given this Defendant Command to acquaint your Lordships with some things from his Majesty. 'This Defendant there, upon the said 3d 'Day of '*January*, in this honourable 'House before your Lordships then and 'there sitting in Parliament, in Obedience 'to his Majesty's said Commands, as a Message from him, did declare the aforesaid 'Commands of his Majesty, by acquainting your Lordships, that the King had 'commanded him to tell your Lordships, 'that divers great and treasonable Designs and Practices against him and the 'State, had come to his Majesty's Knowledge, for which the King had given his 'Command to accuse six Persons of high 'Treason and other high Misdemeanours, 'by delivering these Articles; and that 'he was commanded to desire your Lordships to have them read, which by your 'Lordships Command were accordingly 'read by the Clerk; and then farther 'declared, that he was also commanded 'by his Majesty to desire on his Majesty's 'Behalf, that a select Committee might 'be appointed to take the Examination 'of such Witnesses as the King would 'produce, as formerly had been done in 'cases of like nature, according to the 'Justice of this House; and this Committee to be under a Command of Secrecy as formerly; and that he was 'commanded to ask Liberty to add according to Justice; and that he was 'commanded to desire that your Lordships would take care for the securing of 'those Persons, as in Justice there should 'be cause; and saith he did not conceive 'there could be any Offence in what was 'so done by him in this honourable 'House, in Obedience to those his Majesty's Commands, being wholly thereby 'left to your Lordships Wisdom and 'Judgments, being his Majesty's great 'Council, and greatest Court for Advice and Justice. And as touching the 'false, scandalous and malicious advising, 'contriving or publishing the said Articles, 'or any other Articles against the said Persons in the said Papers mentioned, or 'any of them, or any Breach of this 'Defendant's Oath of Attorney-General, 'and to the false, unlawful and malicious 'exhibiting the said Articles into this 'honourable House, or causing any Entry 'thereof

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thereof to be made, and the Intent and Endeavour, falsely, unlawfully and maliciously to deprive this honourable House, or the honourable House of Commons, of any of the Members of the said Houses, or to take away any of their Lives, Estates or good Names, and every Offence and Misdemeanour charged by the said Impeachment upon this Defendant, he saith he is not guilty of them, or any of them, in such Manner and Form, as by the said Impeachment is charged. All which Matters and Things this Defendant is, and will be ready to averr and prove, in such sort as to this honourable House of Parliament shall seem meet.

Thomas Gardiner.

John Fountayne.

Arthur Trevor.

The 21st of January both Houses petitioned his Majesty, that they might be informed what Proof there was against the Lord Kimbolton and the five Members, that they might speedily be proceeded against in a Parliamentary Way, &c. To which his Majesty returned this Answer.

His Majesty having seen and considered the Petition presented unto him the 21st of this Instant, by the Earl of Newport and the Lord Seymour, in the Names of both Houses of Parliament, is pleased to return this Answer. That he doth well approve of the Desire of both Houses for the speedy Proceeding against the Persons mentioned in the Petition, whereof his Majesty finding the great Inconveniencies, by the first Mistake in the Way, hath induced some Delays, that he might be informed in what Order to put the same; but before that be agreed upon, his Majesty thinks it unusual or unfit to discover what Proof is against them, and therefore holds it necessary, least a new Mistake should breed more Delays, (which his Majesty to his Power will avoid) that it be resolved, whether his Majesty be bound in Respect of Privileges to proceed against them by Impeachment in Parliament, or whether he be at Liberty to prefer an Indictment at the common Law in the usual way, or have his Choice of either; whereupon his Majesty will give such speedy Directions for Prosecution, as shall shew his Majesty's Desire to satisfy both Houses, and to put a Determination to the Business.

To the King's most Excellent Majesty.

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The humble Petition of the Lords and Commons, now assembled in Parliament,

Sheweth,

That whereas your Majesty, by a Message sent to both Houses of Parliament, signified an Apprehension of some treasonable Matter to have been committed by the Lord Kimbolton, Mr Hollis, Sir Arthur Haslerig, Mr Pym, Mr Hampden, and Mr Strode, &c. and thereby declared your Majesty's Intentions to proceed against them in an unquestionable way: We the Lords and Commons in this present Parliament assembled, did make our humble Petition to your Majesty to give Directions, that your Parliament might be informed before Tuesday then next ensuing, what Proof there was against them; that accordingly there might be a legal and Parliamentary Proceeding against them, whereby they might be brought to condemn Punishment if Guilty, or discharged from so heavy an Accusation if Innocent; and whereas your Majesty was graciously pleased in Answer to that Petition, to express your good Approbation of the Desire of both Houses for the speedy Proceeding against the Persons in that Petition mentioned: Yet your Majesty gave no other Satisfaction to their Desire than this, That your Majesty held it necessary, lest a new Mistake should breed more Delays, that it should be resolved, whether your Majesty were bound in respect of Privileges to proceed against them by Impeachment in Parliament, or be left at Liberty to prefer an Indictment at the common Law in the usual way, or to have the Choice of either; and we finding still, that there is no legal and Parliamentary Proceeding against them, and that they still lie under the Burthen of that high Charge, we think it our Duty once again to beseech your Majesty to give Directions, that your Parliament may be informed before Friday next, what Proof there is against them, that accordingly they may be called to a legal Trial; it being the undoubted Right and Privilege of Parliament, that no Member of Parliament can be proceeded against, without the Consent of Parliament: And this we

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‘most humbly conceive ourselves obliged
‘to ask, it being no less agreeable with
‘Justice to have the Innocency of Parties
‘unjustly charged, manifested, than to
‘bring the Nöcent to their just Punish-
‘ment.’

*To this Petition his Majesty returned this
Answer.*

‘That as he once conceived, that he
‘had ground enough to accuse them, so
‘now his Majesty finds as good cause
‘wholly to desert any Prosecution of
‘them. And for a farther Testimony of
‘his Majesty’s real Intention towards all
‘his loving Subjects (some of whom
‘happily may be involved in some un-
‘knowing and unwilling Errors) for the
‘better composing and settling of all
‘Fears and Jealousies of what kind so-
‘ever his Majesty is ready to grant as
‘free and general a Pardon for the full
‘Contentment of all his loving Subjects,
‘as shall by the Approbation of both
‘Houses of Parliament be thought con-
‘venient for that purpose.’

But the Houses not satisfied with this
Address, presented another Petition to
his Majesty in these Words.

To the King’s most Excellent Majesty,

*The humble Petition of the Lords and
Commons now assembled in Parliament,*

Sheweth,

‘That your Majesty in answer to their
‘late Petition touching the Proceedings
‘against the Lord Kimbolton, Mr Hollis,
‘Sir Arthur Haslerig, Mr Pym, Mr Hamp-
‘den, and Mr Strode, Members of the
‘Parliament, was pleased to signify, ‘That
‘as your Majesty once conceived, that
‘you had ground enough to accuse them,
‘so now your Majesty finds as good cause
‘wholly to desert any farther Prosecution
‘of them; notwithstanding which, they
‘remain still under that heavy Charge
‘so imputed unto them, to the exceeding
‘Prejudice not only of themselves, but
‘also of the whole Parliament; and
‘whereas by express Laws and Statutes
‘of this your Realm, that is to say, by
‘two Acts of Parliament, the one made
‘in the 37th, and the other in the 38th
‘Year of the Reign of your most noble
‘Progenitor King Edward III, if any
‘Person whatsoever make Suggestion to

‘the King himself of any Crime com-
‘mitted by another, the same Person
‘ought to be sent with the Suggestion
‘before the Chancellor or Keeper of the
‘Great Seal, the Treasurer or the Great
‘Council, there to find Surety to pursue
‘his Suggestion; which if he cannot
‘prove, he is to be imprisoned till he hath
‘satisfied the Party accused, of his Da-
‘mages and Slander, and made Fine and
‘Ransom to the King. The said Lords
‘and Commons therefore humbly beseech
‘your Majesty, that not only in Point of
‘Justice to the said Members in these
‘particulars, but for the Vindication of
‘the Rights and Privileges of Parliament,
‘your Majesty will be pleased to send
‘the Person or Persons that in this Case
‘made the Suggestions or Informations to
‘your Parliament, that so such Fruits of
‘the said good Laws may be had, as was
‘intended by them, and the Rights and
‘Privileges of Parliament may be vindi-
‘cated, which of Right and Justice ought
‘not to be denied.’

What Answer his Majesty was pleased
to return to this Petition, or whether any,
I do not find; but some time after, his
Majesty sent this Letter touching the At-
torney General.

CHARLES REX.

‘Right trusty and well beloved Coun-
‘sellors, We greet you well, and have
‘thought good hereby to certify, That
‘we did the 3d of January last deliver to
‘our Attorney certain Articles of Accu-
‘sation ingrossed in Paper, a Copy where-
‘of we have here sent inclosed; and did
‘then command him in our Name to
‘acquaint our House of Peers, that divers
‘great and treasonable Designs and Prac-
‘tices against us and the State had come
‘to our Knowledge, for which we com-
‘manded him in our Name to accuse
‘the six Persons in the said Paper men-
‘tioned, of High Treason and other
‘high Misdemeanours, by delivering the
‘Paper to our said House, and to desire
‘to have it read: And farther to desire
‘in our Name, That a select Committee
‘of Lords might be appointed to take
‘the Examinations of such Witnesses, as
‘we would produce, and as had formerly
‘been done in Cases of like Nature, ac-
‘cording to the Justice of the House;
‘and the Committee to be under a Com-
‘mand of Secrecy as formerly; and far-
‘ther in our Name to ask Liberty to add
‘and

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and alter if there should be Cause. We do therefore declare, That our said Attorney did not advise or contrive the said Articles, nor had any thing to do with or in advising any Breach of Privilege that followed after; and for what he did in Obedience to our Commands, we conceive he was bound by Oath and the Duty of his Place, and by the Trust by us reposed in him so to do; and had he refused to obey us therein, we would have questioned him for Breach of his Oath, Duty and Trust. But now having declared, That we find Cause wholly to desist from proceeding against the Persons accused, We have commanded him to proceed no farther therein, nor to produce or discover any Proof concerning the same.

Given at Royston, the
4th of March, 1641.

This Sentence however afterwards passed upon Sir Edward Herbert in the Lords House for his accusing the said Members.

Sabbati 23 April. 1642.

Sentence
passed on the
Attorney
General.

Whereas Sir Edward Herbert, Knight, his Majesty's Attorney General, hath been Impeached by the Knights, Citizens and Burgeſſes of the House of Commons for the advising, contriving and publishing certain false, scandalous and malicious Articles of High Treason against the Lord Kimbolton, one of the Members of the House of Peers, Sir Arthur Haſſerig Knight, Denzil Hollis Esq; John Pym, John Hampden, and William Strode, Esqrs. being then

and yet Members of the House of Commons; and for causing Articles of High Treason to be entred into the Clerk's Books of the said House of Peers, which was done against the Privileges of Parliament, tending to the Subversion of the ancient Rights and Being of Parliament, and against the Liberty of the Subject, and contrary to his Oath, and the Laws of this Realm.

The Lords having taken the said Charge into due Consideration, do find him guilty of the exhibiting the said Articles into the House of Peers, and causing the same to be entred in the Clerk's Book of the said House, intending thereby falsely, unlawfully and maliciously to deprive the said House of the several Members; all which Doings were, and are high Breaches of the Privileges of Parliament, tending to the Subversion of the ancient Rights and Being of Parliament, and contrary to the Liberty of the Subject; and are to the great Scandal of his Majesty and his Government, and against the Laws of this Realm; for which Offences this high Court doth award and adjudge:

I. That Sir Edward Herbert, his Majesty's Attorney General, is by Sentence of this House disabled and made incapable of being a Member, Assistant or Pleader in either House of Parliament, and of all Offices, saving that of Attorney General, which he now holds.

II. That Mr Attorney General shall be forthwith committed to the Prison of the Fleet during the Pleasure of this House.

Proceedings

Waller, Tom-
kins, &c.

**Proceedings against EDMUND WALLER, ALEXAN-
DER HAMPDEN, and — TOMPKINS, Esqrs.
— CHALONER, — HASSEL, — BLINK-
HORN, — ABBOT, and — WHITE, Ci-
tizens of London, at Guildhall, June 30, Anno 1643.
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Tried by a
Court-Mar-
tial:

The Charge
against them.

THE Prisoners, *Tompkins* and *Chaloner*, and the rest were appointed to be tried before a Court-Martial, consisting of the Earl of *Manchester* the President, and twenty two Colonels of the Parliament-Army. The Charge preferred against them was: I. That they had conspired to seize the King's Children, then in the Custody of the Parliament. II. That they had conspired to seize several Members of both Houses of Parliament, the Lord Mayor, and the Committee of the Militia, under pretence of bringing them to Justice. III. That they had conspired to take the *Tower of London* with the Out-Works, Forts, Magazines, Gates, and other Places of Importance about the City. IV. That they had conspired to let in the King's Forces to surprize the City, and destroy all those who adhered to the Parliament. V. That they intended by Force of Arms to oppose all Payments and Taxes raised by Authority of Parliament, for the Support of their Armies and their just Defence; to alter the whole Government of the City; and by the Assistance of the King's Forces, to over-awe and master the Parliament.

They con-
fess the Of-
fence.

Mr *Tompkins* and Mr *Chaloner* being first brought upon their Trial, the principal Evidence produced against them was their own Confessions, and that of Mr *Waller's*, taken at their respective Examinations when they were apprehended; none of which came up to the Charge of seizing the *Tower*, and introducing the King's Forces into the City; but there appeared to be a Correspondence between the King's Friends at *London* and *Oxford*, in order to obtain a Peace between his Majesty and the Parliament: And if the way of Treaty failed, Mr *Waller* and

his Friends proposed to effect it, by making a Party in the City, which should refuse to contribute any longer towards the War: Of which Mr *Tompkins* and Mr *Chaloner* being convicted, received Sentence of Death; and the next Day *Blinkhorn* and *Abbot* were sentenced in like manner; but *Hampden* falling sick, his Trial was put off. *Hassel* died the Night before his Trial: As to *White*, the Court could not agree in their Judgment; and *Hampden* died afterwards in Prison.

On *Wednesday, July 5.* Mr *Tompkins* was executed on a Gibbet, at the End of *Fetter-Lane* in *Holbourn* (near his own House); and the same Day Mr *Chaloner* suffered in like manner over against the *Royal-Exchange*. Their Speeches (as they were printed in those Times) were as follow.

Gentlemen,

'I do humbly acknowledge in the
'Sight of Almighty God, (to whom and
'to Angels, and to this great Assembly
'of People, I am now a Spectacle) that
'my Sins have deserved of him this un-
'timely and shameful Death, and I hum-
'bly submit to it; and seeing all our Times
'are in his Hand, and that a Sparrow
'falls not to the Ground but with his
'Providence, much more Man that bears
'his Image. I am no Atheist, but do
'acknowledge God's great Protection to
'me, and his Goodness and Mercy, in
'that he hath during all this Trouble I
'have undergone, preserved my Heart,
'and kept it from Sin, and from all
'Thoughts of Distraction. I acknow-
'ledge his great Mercy. I am no Papist.
'I must tell you why I shall speak a little
'of this, because I have been desired by
'a good and ancient Friend of mine, to
'declare

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Mr Tompkins's
Speech at the
Place of Ex-
ecution.

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' declare myself in this Point, and there-
' fore I shall say somewhat to you of this.
' I say, I was never a Papist nor Popishly
' inclined: And for some Relations I
' have had to some that Way, I did never
' make any Shew of the least Inclination
' to Papism. I have sometimes had Con-
' ference and Disputes with some Jesuits,
' (in foreign Parts chiefly). I thank God,
' my Principles of Religion were so ground-
' ed, they could never shake me. I have
' been called by some of them, an *Here-
' tick in Grain*. But this is true, (which
' might make that worthy Friend of mine
' put me in mind to clear myself in this
' Point) in regard of some Relations, and
' in regard I received very civil Usage
' from those of that Religion in foreign
' Parts, where that Religion is professed;
' I returned the like Civility to them here
' as I had Occasion, and especially to
' those whom any civil Affair brought
' into my Conversation; and truly if I
' were to live, I should do the same thing,
' having no Call to the contrary; if I
' were an Officer, it were something. I
' do forgive all the World, as I desire all
' the World should forgive me. Touch-
' ing the Business for which I suffer, I do
' acknowledge that Affection to a Brother-
' in-law, and Affection and Gratitude to
' the King, whose Bread I have eaten
' now above twenty two Years, (I have
' been a Servant to him twenty Years, I
' have been a Servant to him when he was
' Prince, and ever since, it will be twenty
' three Years in *August* next) I confess these
' two Motives drew me into this foolish
' Business. I have often since declared to
' good Friends, that I was glad it was
' discovered, because it might have oc-
' casioned very ill Consequences, and tru-
' ly I have repented having any Hand
' in it.

' Gentlemen, I thank God, God hath
' given me so good a Heart, and such Pre-
' sence of Mind, as I was confident he
' would either take me out of this Danger,
' or that he would be present with me,
' to assist me in bearing this Trouble.
' I do acknowledge this as a great Mercy,
' either to take me away from the Days of
' Sin, or to take me away from the Evils of
' the Time to come, which God avert,
' or to take me away from the Infirmities
' of Age, now approaching upon me.
' I know not what more to say.

Then turning to the Executioner, he
said,

NUMB. XI.

' Honest Friend, I forgive you as the
' Executioner of Justice. I forgive you, and
' I do recommend myself into the Hands
' of Almighty God. And one thing pray
' give me Leave to say, I hope to be saved
' by Faith in Jesus Christ.

Lieutenant-Colonel *Washborn* asked
Mr *Tompkins*, 'Do you acknowledge this
' your Suffering to be just?' Mr *Tompkins*
answered, 'I have said it already, pray do
' not trouble me.' Then Lieutenant *Wash-
born* said to him, 'Whereas you have
' had a Hand in this you suffer for, if
' you know any other Plot that is prejudi-
' cial to the Parliament or State, pray re-
' veal it.' Mr *Tompkins* answered, 'Pray
' trouble me not, I have done my Duty.'

Then the Executioner performed his
Office; and it was to be noted, that in
all this time, from the Beginning to the
End, he never so much as altered his
Countenance, nor by his outward Ap-
pearance seemed in the least abashed with
the Apprehension of Death.

Mr Chaloner's Speech.

Gentlemen,

' It hath pleased God to bring me to
' this Place. God hath now returned my
' Prayer upon me. My Prayer was, That
' if this Design might not be honourable
' to him, that it might be known. God
' hath heard me, and it is discovered; the
' very same thing hath satisfied me that
' I was in an Error, and that I am confi-
' dent I was in a great deal of Fault, and
' I confess I do now die justly, and I pray
' God, that I may now glorify the Lord.
' I shall only thus much declare to the
' World, that may take off the Aspersions
' that was laid upon my Partner and my
' Wife, which neither of them did know
' of this Design. I have declared my
' Conscience freely to God and the World
' in every Particular that concerns the Bu-
' siness. Thus much I shall say for my
' own Particular; there were three Things
' laid to my Charge, which there was
' some Mistake in, concerning the King's
' Letter, whereas it was thought to be
' another way, I thank God it was not
' that way. Then concerning the Seal,
' I had no Hand in the procuring of it,
' nor knew of it 'till the *Friday*. There
' is another Thing, that is, concerning the
' seizing of the Magazines, which I had
' no Hand in neither. But I die justly,
' and deserve this Punishment.

Mr *Chalo-
ner's* Speech.

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‘But now to you all that are here:
‘Let my Example be to you, that you
‘never take yourselves to any thing but
‘what you have Warrant for from the
‘the Lord: I had no Warrant I vow to
‘God, that hath now satisfied me, the
‘Lord I hope will forgive me, I have
‘heartily repented, and I beseech you all
‘to take this as a Warning. And whereas
‘there is now a great deal of Distraction
‘and Division in the City, and that we
‘now make Difference between God’s
‘Ministers and God’s Ministers, despise
‘no Means; I acknowledge my Fault,
‘I did make some Difference, and now
‘acknowledge it, and desire the Lord to
‘forgive me; I have received more Com-
‘fort from such Men, than ever I had
‘before. I shall not now have much to
‘say, but I desire heartily the whole
‘World would forgive me. I do beg of
‘my God and of my Christ, (whom I
‘have not honoured so much as I should
‘have done) that he would have Mer-
‘cy upon me. And now to you all I
‘speak, I do now as freely forgive you,
‘as I trust my Saviour Jesus Christ
‘hath forgiven me; and so Lord Jesus
‘into thy Hands I commend my Spirit,
‘for thou hast redeemed me, O Lord God,
‘and so the Lord take me, the Lord re-
‘ceive me.’

Then his Father tendred him the King’s
Pardon, saying, ‘Here is the King’s gracious
Pardon.’ To which Mr *Challoner* answered,
‘Sir I beseech you trouble me not with it.
‘Pray speak to my Friends to take Care
‘of my Corps, and carry me home.’
Then Mr *Peters* said to him, ‘You are
‘now before the Lord of Heaven, if you
‘have any thing about the Lords you
‘spoke of so often last Night, I beseech
‘you speak your Conscience.’ Mr *Chal-
loner* answering, said, ‘Gentlemen, this
‘is the happiest Day that ever I had. I
‘shall now Gentlemen declare a little
‘more of the Occasion of this, as I am
‘desired by Mr *Peters*, to give him and
‘the World Satisfaction in. It came from
‘Mr *Waller* under this Notion, That if
‘we could make a moderate Party here in
‘London, to stand betwixt, and in the
‘Gap, to unite the King and the Parlia-
‘ment, it would be a very acceptable
‘Work, for now the three Kingdoms
‘lay a bleeding, and unless that were
‘done, there was no Hopes to unite them.
‘Withal I made this Reply, ‘Sir, if I
‘could assure you of three Parts of London,
‘none of them should stir, unless we

‘had the Countenance of the Lords and
‘Commons.’ To this he replied, ‘You
‘shall have to countenance this Business
‘the whole House of Lords (except three
‘or four) and divers of the House of Com-
‘mons.’ We were promised we should
‘speak with these Lords, and in truth,
‘except we had spoken with these Lords,
‘nothing could have been done; for Mr
‘*Abbot*, Mr *Blinkborn*, Mr *Lutloe*, Mr
‘*King*, and myself agreed, that we would
‘not stir, till the Lords had declared them-
‘selves, and would be engaged. And
‘now Gentlemen, I have another Thing
‘to declare, which shall be in Behalf of
‘those that are condemned: As Mr *Waller*
‘was the Mouth from the Lords, as he
‘did declare, so I was the unhappy In-
‘strument from Mr *Waller* to the rest.
‘The Sentence is now past, I desire if it
‘might be, that it might be moved to the
‘House, that no more might suffer in
‘this Cause. This is all I have to say,
‘and desire your hearty Prayers to God
‘for me.’

Then one Mr *Smart* said to him, ‘Mr
‘*Challoner*, if you were to live longer,
‘would you ever have done the like again?’

Mr *Challoner* answered, ‘I am thus far
‘confident, that if it had pleased God to
‘lend me Life, I think I should have ran
‘another Course, and I am confident of
‘it. I hope this is the happiest Day I
‘ever saw, for I hope God is reconciled
‘to me in my Saviour Jesus Christ, that
‘hath given me Repentance, and I am
‘confident he will return my Prayer for
‘me.’ Then at his Request Mr *Peters*
prayed with him, which being ended, he
said these Words: ‘Gentlemen, I do
‘from my Heart forgive you and all the
‘World, desiring you and all the World
‘to forgive me also; and so I commend
‘my Soul into the Hands of God.’

Mr *Waller* being a Member of the
House of Commons, could not be tried
by the Council of War, whilst he con-
tinued so, and therefore on Tuesday,
July the 4th, was brought to the Bar,
and had Leave given him by the Speaker
to say what he could for himself, before
they proceeded to expel him the House,
whereupon he spake as follows.

Mr *Waller*’s Speech in the House of Com-
mons, on Tuesday, July the 4th. 1643.

Mr *Speaker*,
‘I acknowledge it a great Mercy of
‘God, and a great Favour from you, that
‘I am

Mr *Waller*’s
Speech to
move Com-
passion in the
House of
Commons.

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'I am once more suffered to behold this honourable Assembly, I mean not to make use of it to say any thing in my own Defence, by Justification or Denial of what I have done, I have already confessed enough to make me appear worthy, not only to be put out of this House, but out of the World too: All my humble request to you is, that if I seem to you as unworthy to live as I do to myself, I may have the Honour to receive my Death from your Hands, and not to be exposed to a Tryal by the Council of War, whatever you shall think me worthy to suffer in a parliamentary Way, is not like to find stop any where else.

'This Sir, I hope you will be pleased for your own Sakes to grant me, who am already so miserable, that nothing can be added to my Calamity, but to be made the Occasion of creating a Precedent to your own Disadvantage: Besides the Right I may have to this, consider I beseech you, that the Eyes of the World are upon you; you govern in chief, and if you should expose your own Members to the Punishment of others, it will be thought that you either want Power or Leisure to chastize them yourselves, nor let any Man despise the ill Consequence of such a Precedent as this will be, because he seeth not presently the Inconveniences which may ensue: You have many Armies on foot, and it is uncertain how long you may have Occasion to use them. Soldiers and Commanders (tho' I know well they of the Parliament's Army excel no less in Modesty, than they do in Courage) are generally of a Nature ready to pretend to the utmost Power of this kind, which they conceive to be due to them, and may be too apt, upon any Occasion of Discontent, to make use of such a Precedent as this. In this very Parliament, you have not been without some Taste of the Experience hereof; it is now somewhat more than two Years since you had an Army in the North, paid and directed by yourselves, and yet you may be pleased to remember, there was a considerable Number of Officers in that Army, which joined in a Petition or Remonstrance to this House, taking Notice of what some Members had said, as they supposed to their Disadvantage, and did little less than require them of you;

it is true there had been some tampering with them; but what has happened at one time, may wisely be thought possible to fall out again at another.

'Sir, I presume but to point you out the Danger, if it be not just, I know you will not do me the Wrong to expose me to this Trial; if it be just, your Army may another time require the same Justice of you, in their own Behalf against some other Member, who perhaps you would be less willing to part with. Necessity has of late forced you into untrodden Paths, and in such a Case as this, where you have no Precedent of your own, you may not do amiss to look abroad upon other States and Senates, which exercise the supreme Power, as you now do here.

'I dare confidently say, you shall find none, either antient or modern, which ever exposed any of their own Order to be tried for his Life, by the Officers of the Armies abroad, for what he did while he resided among them in the Senate.

'Among the Romans the Practice was so contrary, that some inferior Officers in their Army far from the City, having been sentenced by their General or Commander in chief, as deserving Death by their Discipline of War, have nevertheless (because they were Senators) appealed thither, and the Cause has received a new Hearing in the Senate. Not to use more Words to persuade you to take Heed that you wound not yourselves through my Sides, in violating the Privileges belonging to your own Persons; I shall humbly desire you to consider likewise, the Nature of my Offence, (not but that I should be much ashamed to say any thing in Diminution thereof: God knows, it is horrid enough for the Evil it might have occasioned) but if you look near it, it may perhaps appear to be rather a Civil than a Martial Crime, and so to have title to a Tryal at Common-Law of the Land; there may justly be some Difference put between me and others, in this Business.

'I have had nothing to do with the other Army, or any Intention to begin the Offer of Violence to any Body. It was only a civil Pretence to that which I then foolishly conceived to be the Right of the Subject. I humbly refer it to your Considerations, and to your Consciences.

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Consciences. I know you will take care not to shed the Blood of War in Peace, that Blood by the Law of War, which hath a Right to be tryed by the Law of Peace. For so much as concerns myself and my Part in this Business, (if I were worthy to have any thing spoken or patiently heard in my Behalf) this might truly be said, that I made not this Business, but found it; it was in other Mens Hands long before it was brought to me, and when it came I extended it not, but restrained it. For the Propositions of letting in Part of the King's Army, or offering Violence to the Members of this House, I ever disallowed, and utterly rejected them.

What it was that moved me to entertain Discourse of this Business so far as I did, I will tell you ingenuously, and that rather as a Warning for others, than that it makes any thing for myself: It was only Impatience of the Inconveniences of the present War, looking on Things with a carnal Eye, and not minding that which chiefly (if not only) ought to have been considered: The inestimable Value of the Cause you have in Hand, the Cause of God and of Religion, and the Necessities you are forced on, for the Maintenance of the same; as a just Punishment for this Neglect, it pleased God to desert and suffer me with a fatal Blindness, to be led on and engaged in such Counsels as were wholly disproportioned to the rest of my Life: These, Sir, my own Conscience tells me, were the Cause of my failing, and not Malice, or any ill habit of Mind, or Disposition towards the Commonwealth, or to the Parliament: For from whence should I have it? If you look on my Birth, you will not find it in my Blood: I am of a Stock which hath born you better Fruit: If you look on my Education, it hath been almost from my Childhood in this House, and among the best sort of Men, and for the whole Practice of my Life till this time, if another were to speak for me, he might reasonably say, That neither my Actions out of Parliament, nor my Expressions in it, have savoured of Distrust or Malice to the Liberties of the People or Privileges of Parliament.

Thus, Sir, I have set before your Eyes, both my Person and my Case, wherein I shall make no such Defence by denying or extenuating any thing: I have

done as ordinary Delinquents do, my Address to you, and all my Plea shall only be such as Children use to their Parents. I have offended I confess it; I never did any thing like it before: It is a Passage unsuitable to the whole Course of my Life beside, and for the Time to come, as God that can bring Light out of Darknes, and hath made this Business in the Event useful to you, so also hath he to me: You have by it made an happy Discovery of your Enemies, and God of myself, and the evil Principles I walk by; so that if you look either on what I have been heretofore, or what I now am, and by God's Grace assisting me, shall always continue to be, you may perhaps think me fit to be an Example of your Compassion and Clemency.

Sir, I shall no sooner leave you, but my Life will depend on your Breath, and not that alone, but the Subsistence of some that are more innocent. I might therefore shew you my Children, whom the Rigour of your Justice would make compleat Orphans, being already Motherless. I might shew you a Family, wherein there are some unworthy to have their Share in that Mark of Infamy which now threatens us: But something there is, which if I could shew you, would move you more than all this; it is my Heart, which abhors what I have done more, and is more severe to itself than the severest Judge can be. A Heart (Mr Speaker) so awakened by this Affliction, and so entirely devoted to the Cause you maintain, that I earnestly desire of God to incline you so to dispose of me, whether for Life or for Death, as may most conduce to the Advancement thereof.

Sir, not to trouble you any longer, if I die, I shall die praying for you, if I live, I shall live serving you, and render you back the Use and Employment of all those Days you shall add to my Life.

After this, having withdrawn himself, he was called in again, and (being by the Speaker required thereto) gave them an Account how he came first to the Knowledge of this Business, &c. However they proceeded to expel him the House; and so being left to the Council of War, he was condemned to die. But had a Reprieve from General Essex, and after about a Year's Imprisonment, paying a Fine of 10000*l.* was discharged, and travelled

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travelled into *France*. The Earl of *Portland* and the Lord *Conway* were taxed as being privy to this Design, and for some time in Custody; but it not being clearly proved, they were soon after discharged.

Thus far Mr *Rushworth*.

The Lord *Clarendon* gives us a particular Account of these Transactions, and in some Particulars seems to differ from Mr *Rushworth*. He observes that there were two Designs on foot among the King's Friends, the one was this of Mr *Waller's*, to compel the violent Party to accept of Peace, by refusing to contribute to the War, if they refused the Overtures made by the King; and the other of Sir *Nicholas Crisp*, a wealthy Citizen of *London*, who being hardly used by the Faction there, fled to the King at *Oxford*, and still kept a Correspondence with his Acquaintance at *London*. This Gentleman had concerted Measures with the Loyalists, in Case the King should be superior to the Rebels in the Field this Summer, and approached *London*, to assemble their Party in the City, and make a Push in his Majesty's Favour; and had procured a kind of Commission of Array from his Majesty, and sent to *London* by the Lady *Aubigny*, to authorise such an Attempt whenever it should be judged proper: But nothing more was done in this, than the making Lists of such Persons as might be depended on in the City, which Lists, with the Commission above-mentioned, unfortunately fell into the Hands of the Parliament. And this occasioned their blending the two Plots as they called them together, tho' Mr *Waller* and his Friends had no manner of Knowledge of that of Sir *Nicholas Crisp's*, nor was any thing of that kind proved or confessed by Mr *Waller* or any of his Adherents, tho' they appeared exceeding ready to make Discoveries, in Hopes of obtaining Mercy.

Mr *Waller* was one of those Members, who upon the Rupture between the King and Parliament, withdrew from the House, but at the time the Royal Standard was set up, returned with the King's Approbation to *London*, where he spoke with great Freedom against the Proceedings of the House; which procured him a great Reputation with all that wished well to the King, or were desirous to prevent the Ruin of the Kingdom; and these entered into a strict Familiarity with him, knowing him to have a good Estate, and believing him too

wary in his Nature, to engage in any hazardous Designs.

Mr *Tompkins* Clerk of the Queen's Council had married Mr *Waller's* Sister, and having a good Interest in the City, conversed much with those who disliked the Proceedings of the Parliament, and from them received Information of the Temper of the People: And Mr *Waller* and he frequently imparted their Intelligence and Observations to each other. The one relating how many in both Houses were inclined to Peace, and the other giving the like Account of many substantial Citizens in *London*, and communicating what one received from the other to the Company they conversed with, 'till at length they and their Friends had formed a Design, either by petitioning the Houses, or opposing the raising such Supplies as were necessary to continue the War, to oblige the furious Drivers to yield to reasonable Terms of Accommodation. And as the Royalists were under some Apprehension of a general Massacre at this time, the noble Historian supposes, that in some of their Discourses, they might touch upon such Expedients, as would conduce to their Safety: But is positive there never was any formed Design of admitting the King's Army into *London*, or surprising the Parliament or any of the Members, as the Faction gave out. However, a Servant of Mr *Tompkins*, who had often cursorily over-heard his Master and Mr *Waller* discourse of the Argument we are now upon, placed himself behind a Hanging at a time they were together; and there, whilst either of them discoursed the Language and Opinion of the Company they kept, over-heard enough to make him believe his Information and Discovery would make him welcome to those whom he thought concerned; and so went to Mr *Pym*, and acquainted him with all he had heard, or probably imagined. The Time when Mr *Pym* was made acquainted with it, is not known, but the Circumstances of the publishing it, were such as filled all Men with Apprehensions. It was on *Wednesday* the 31st of *May*, their solemn Fast Day, when being all at their Sermon in St *Margaret's* Church in *Westminster* according to their Custom, a Letter or Message is brought privately to Mr *Pym*, who thereupon, with some of the most active Members, rise from their Seats; and after a little whispering together, remove out of the Church: This could not but exceedingly

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affect

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The Lord
Clarendon's
Account of
the Plot.

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affect those who stayed behind. Immediately they sent Guards to all the Prisons, as *Lambeth-House*, *Ely-House*, and such Places where the Malignants were in Custody, with Directions to search the Prisoners; and some other Places which they thought fit should be suspected. After the Sermons were ended, the Houses met, and were only then told, that Letters were intercepted going to the King and the Court at *Oxford*, that expressed some notable Conspiracy in Hand, to deliver up the Parliament and the City into the Hands of the Cavaliers, and that the Time for the Execution of it drew very near. Hereupon a Committee was appointed, to examine all Persons they thought fit, and to apprehend some nominated at that time. And the same Night this Committee apprehended Mr *Waller* and Mr *Tompkins*, and the next Day such others as they suspected.

Mr *Waller* was so confounded with Fear and Apprehension, that he confessed whatever he had said, heard, thought or seen, all that he knew of himself, and all that he suspected of others, without concealing any Person of what Degree or Quality soever, or any Discourse that he had ever, upon any Occasion, entertained with them: What such and such Ladies of great Honour, to whom, upon the Credit of his great Wit and very good Reputation he had been admitted, had spoke to him in their Chambers of the Proceedings in the Houses, and how they had encouraged him to oppose them; what Correspondence and Intercourse they had with some Ministers of State at *Oxford*, and how they derived all Intelligence thither. He informed them, that the Earl of *Portland* and the Lord *Conway* had been particular in all the Agitations which had been with the Citizens, and had given frequent Advice and Directions, how they should demean themselves; and that the Earl of *Northumberland* had expressed very good Wishes to any Attempt that might give a Stop to the violent Actions and Proceedings of the Houses, and produce a good Understanding with the King.

The Parliament upon this Discovery, ordered a publick Thanksgiving for their great Deliverance, and framed a Vow and Covenant to be taken by the Members of both Houses, and afterwards by the City and Army, entituled,

A Sacred Vow and Covenant, taken by the Lords and Commons assembled in Parliament, upon the Discovery of the late horrid and treacherous Design for the Destruction of this Parliament and the Kingdom; the 6th of June, 1643.

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‘Whereas there hath been and now is, in this Kingdom, a Popish and Traiterous Plot for the Subversion of the true reformed Religion, and the Liberty of the Subject; and in Pursuance thereof, a Popish Army hath been raised, and is now on foot in divers Parts of this Kingdom: And whereas there hath been a treacherous and horrid Design, lately discovered by the great Blessing and especial Providence of God, of divers Persons to join themselves with the Armies raised by the King, and to destroy the Forces raised by the Lords and Commons in Parliament, to surprize the Cities of *London* and *Westminster* with the Suburbs, by Arms to force the Parliament: And finding by constant Experience, that many Ways of Force and Treachery are continually attempted, to bring to utter Ruin and Destruction the Parliament and Kingdom; and that which is dearest, the true Protestant Religion: And that for the preventing and withstanding the same, it is fit that all who are true hearted and Lovers of their Country, should bind themselves each to other, in a sacred Vow and Covenant.

‘I *A. B.* in Humility and Reverence of the divine Majesty, declare my hearty Sorrow for my own Sins, and the Sins of this Nation, which have deserved the Calamities and Judgments that now lie upon it: And my true Intention is, by God’s Grace, to endeavour the Amendment of my own Ways: And I do farther, in the Presence of Almighty God, declare, vow and covenant, that in order to the Security and Preservation of the true reformed Protestant Religion, and Liberty of the Subject, I will not consent to the laying down of Arms, so long as the Papists, now in open War against the Parliament, shall by Force of Arms be protected from the Justice thereof. And that I do abhor and detest the said wicked and treacherous Design, lately discovered: And that I never gave, nor will give my Assent to the Execution thereof, but will, according

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ing to my Power and Vocation, oppose
and resist the same, and all others of the
like Nature. And in Case any other
like Design shall hereafter come to my
Knowledge, I will make such timely
Discovery, as I shall conceive may best
conduce to the preventing thereof. And
whereas I do in my Conscience believe,
that the Forces raised by the two Houses
of Parliament, are raised and continued
for their just Defence, and for the De-
fence of the true Protestant Religion
and Liberty of the Subject, against the
Forces raised by the King; that I will
according to my Power and Vocation
assist the Forces raised and continued by
both Houses of Parliament, against the
Forces raised by the King, without
their Consent: And will likewise assist
all other Persons that shall take this
Oath, and what they shall do in Pur-
suance thereof, and will not directly or
indirectly, adhere unto, nor shall wil-
lingly assist the Forces raised by the King,
without Consent of both Houses of
Parliament. And this Vow and Cove-
nant, I make in the Presence of Almighty
God, the Searcher of all Hearts, with
a true Intention to perform the same,
as I shall answer at the great Day, when
the Secrets of all Hearts shall be dis-
closed.

Though many were much startled at
this Covenant, and took time to consider
of it, there being in the Preamble and
positive Part, much which very few be-
lieved, and in the promissory Part, a more
direct denouncing War against the King
than had been in plain Terms before a-
vowed by them, and an absolute Prote-
station against Peace, 'till the King were
at their Mercy, yet the Fear of being
concluded guilty of the Plot, made them
swallow all the rest: And the Example
of one prevailing with many, there was
not a Member of either House that took
it not. And being thus fettered, and en-
tangled themselves, they sent their Com-
mittee into the City, to acquaint them
with their happy Discovery and how mi-
raculously God had preserved them, and
to engage them in the same sacred Vow
and Covenant; which was readily sub-
mitted to; and by the Industry of their
Clergy, sooner than can be imagined,
taken throughout that People. Then it
was with equal Diligence and Solemnity
transmitted to their Army, that their
Fears of Inconvenience from thence might
be likewise purged: And thence it grew
the Mark of Distinction to know their

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Friends and Enemies by, and whosoever
refused to take that Covenant, needed no
other Charge to be concluded, and pro-
secuted as the highest Malignant.

There were great Endeavours used to
have proceeded with the like Severity a-
gainst the Earl of *Portland* and the Lord
Conway, as they had done against *Tompkins*
and *Challoner*; and in order to it, their
Lordships and Mr *Waller* were confron-
ted before the Committee, but they as
positively denying as he charging them,
and there being no other Witness against
them, the Prosecution was dropped; and
after a long Restraint they were discharged
upon Bail. As to the Accusation of the
Earl of *Northumberland*, it was proceed-
ed tenderly in, for tho' the violent Party
was heartily incensed against him, as a
Man weary of them, yet his Reputation
was still very great.

Mr *Waller* himself, (though confessed-
ly the most guilty, and by his unhappy
Demeanour in this time of his Affliction,
he had raised as many Enemies as he had
formerly Friends, and almost the same)
after he had with incredible Dissimulation
acted such a Remorse of Conscience, that
his Tryal was put off out of Christian
Compassion, 'till he might recover his
Understanding, (and that was not 'till the
Heat and Fury of the Prosecutors was
reasonably abated with the Sacrifices they
had made) and by drawing Visitants to
himself of the most powerful Ministers
of all Factions, had by his Liberality and
Penitence, his receiving vulgar and vile
Sayings from them with Humility and
Reverence, as clearer Convictions and In-
formations than in his Life he had ever
had, and distributing great Sums to them
for their Prayers and ghostly Council, so
satisfied them, that they satisfied others,
was brought at his Suit to the House of
Commons Bar; where he made the Speech
already recited, and prevailed with them
not to be tried by a Council of War, ac-
cording to the Lord *Clarendon*; from
whence it is observable, that the Lord
Clarendon contradicts Mr *Rusworth*, who
relates that Mr *Waller* was tried by the
Court Martial and condemned, but re-
prieved by the Earl of *Essex* the General.
And Mr *Rusworth*, who was Clerk of
the Parliament, could not well be igno-
rant of the Fact. However thus much is
evident from both of them, That the
Parliament interposed either before or af-
ter Sentence, and accepted of the Sum of
ten thousand Pounds, as a Composition
for his Offence.

Proceedings against ROBERT YEOMANS, Alderman of Bristol, and Mr GEORGE BOUCHER, for adhering to his Majesty, &c. Anno 1643. 19 CAR. I.

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The Charge
against him.

Against Mr
Boucher.

THE Charge against Mr *Yeomans* was, That he held a Correspondence with the Royalists, and was engaged in a Conspiracy to betray the City of *Bristol* into their Hands, with some farther Articles which will be found in the Charge against Mr *Boucher*; for which he was condemned by a Court Martial of the Officers of the Garrison, of which Colonel *Fiennes* the Governor, was President.

The Charge against Mr *Boucher* was, I. That he drew up an Oath or Protestation to be taken by the Conspirators of the following Tenor, *viz.*

'I *A. B.* do voluntarily protest, before Almighty God, upon the Faith of a Christian, that I will to the utmost of my Power, and with the Hazard of my Life and Fortunes, defend my dread Sovereign Lord King *Charles*, his Rights Crown and Dignity, against all Force and Forces which are or shall be raised within his Majesty's Dominions, without his Royal Assent, Authority and Command.'

II. That he had raised Men, and provided Arms and Ammunition of all sorts, Crows of Iron, Pick-axes, Axes and Iron Wedges, with Torches and Links, to farther the Design of suppressing the Court of Guard at *Froom Gates*.

III. That he conspired with others, to let in Prince *Rupert*, a foreign Prince, who being entered the City, should put to Death and plunder all the Inhabitants of that City, that came not out to assist and join with them.

IV. That he did undertake to give Prince *Rupert* a Signal when he should make his Approaches to the City, by ringing *St John's* and *St Michael's* Bells.

V. That he certified Prince *Rupert*, that the Design of giving him Entrance into the Town was discovered, and advised him to retreat.

VI. That he forced open the *Croud Door* (being a Burial-place under the

Choir) in *St John Baptist's Church*, with an Intention to use it for a Prison, to secure such as should make Resistance, whether they were of the Guard or others, while they were in Pursuance of their Design.

VII. Lastly, That he had Locks and other Provisions to chain up the Passages of *St John's Gate*, in case any of the Parliament House should rush in upon them whilst the Work was in doing.

Upon which Articles on the 22d of *May*, at the Lady *Rogers* her House, he received the like Sentence as Mr *Yeomans* had done.

The Case was this, several of the Citizens and Inhabitants of *Bristol*, had designed to have delivered that City into the Hands of the King's Forces, and appointed *March* the 7th in the Night to be the time: But the same Evening Colonel *Nathaniel Fiennes* (second Son to the Lord *Say*) had notice thereof and prevented it, seizing upon divers of the Persons concerned in that Design, of whom the chief were Mr *Robert Yeomans*, the last Year Sheriff of *Bristol*, and Mr *George Boucher*, a Citizen there of good Estate, who with several others had for some considerable time been carrying it on, and for that Purpose held correspondence with the Court at *Oxford*: And a Commission was obtained and sent from his Majesty to Mr *Yeomans*, to raise Forces and to constitute Commanders for the King's Service, and Mr *Boucher* contrived an Oath or Protestation to be taken by all that joined themselves in this Association.

After Communication of Counsels and many Messages interchanged between *Oxford* and *Bristol*, it was resolved, that upon *Monday* the 7th of *March* in the Night, Prince *Rupert* with a strong Party of the King's Forces should advance to *Durdon-down*, not a full Mile from the City, and those within the City were to seize two of the Ports, *viz.* *Froomgate* and *Newgate*, and having secured the Guard

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Guards there, were to open the said Gates and let in Prince *Rupert* and his Troops who were to have notice given them to approach by the Ringing of St *John's* and St *Michael's* Bells; the Confederates were to be distinguished by white Tape in their Hats, and the Word to be *Charles*: According to which Project divers of them were met armed at Mr *Yeomans's* House, and others at Mr *Boucher's*, and waiting the appointed Hour (which was three in the Morning) to fall upon their Work. But that Evening late a little Boy declared, that divers Musquets were carried into Mr *Yeomans's* House; whereupon a more diligent Eye was kept upon them, and at last a Guard ordered to search the House, who were first denied Entrance but afterwards let in where they found a considerable Number of Men and Arms; there was some small offer of Resistance, but the most were endeavouring an Escape over the Top of the House, and divers were taken both there and at Mr *Boucher's*. Prince *Rupert* with his Forces came that Night to the Down, expecting till five of the Clock next Morning the Signal and Opening of the Gates, but several Pieces of Ordnance being in the Morning discharged that way, perceiving the Design frustrated, his Highness drew off.

Whereupon the Conspirators being apprehended, Alderman *Yeomans* and Mr *Boucher* were condemned as related above.

Great endeavours were used by the King and the Generals of the Royalists to save the Lives of these Gentlemen, as appears by the following Letters.

A Letter from *Patrick* Earl of *Forth*, Lord *Etterick*, and Lord Lieutenant of all his Majesty's Forces, sent by a Drum, and directed to the Commander in Chief and the Council of War in the City of *Bristol*.

I have been informed that lately at a Council of War you have condemned to Death *Robert Yeomans*, late Sheriff of the City of *Bristol*, who hath his Majesty's Commission for raising a Regiment for his Service, *William Yeomans* his Brother, *George Boucher*, and *Edward Dacres*, all for expressing their Loyalty to his Majesty, and endeavouring his Service according to their Allegiance, and that you intend to proceed speedily against divers others in the like manner, I do therefore signify unto you, that I intend speedily to put

Mr *Stephens*, Mr *George*, Captain *Huntly*, and others, taken in Rebellion against his Majesty at *Cirencester* into the same Condition; and do further advertise you, that if you offer by that unjust Judgment to execute any of them you have so condemned, that those now in Custody here, especially Mr *George*, Mr *Stephens*, and Captain *Huntly*, must expect no Favour or Mercy. Given under my Hand at *Oxford*, this 16th of May 1643.

Having received a Writing from your Lordship, wherein it is declared, that upon Information of our late Proceedings against *Robert Yeomans*, *William Yeomans*, and others, you intend speedily to put Mr *George*, Mr *Stephens*, Captain *Huntly*, and others, into the same Condition: We are well assured, that neither your Lordship nor any mortal Man can put them into the same Condition, for whether they live or die, they will be accounted true and honest Men, faithful to their King and Country, and such as in a fair and open way have always prosecuted that Cause, which in their Judgment guided by the Judgment of the highest Court, they held the justest: Whereas the Conspirators of this City must, both in Life and Death, carry perpetually with them the Brand of Treachery and Conspiracy. And if *Robert Yeomans* had made use of his Commission in an open way, he should be put in no worse Condition than others in the like kind had been: But the Law of Nature amongst all Men, and the Law of Arms amongst all Soldiers, maketh a Difference between open Enemies and secret Spies and Conspirators: And if you shall not make the like Distinction, we do signify unto you, that we shall not only proceed to the Execution of the Persons already condemned, but also of divers others the Conspirators unto whom we had some Thoughts of extending Mercy. And do advertise you, that if by any inhumane and unsoldier-like Sentence, you shall proceed to the Execution of the Persons by you named, or any other of our Friends in your Custody that have been taken in a fair and open way of War; then Sir *Walter Pye*, Sir *William Crofts*, Colonel *Connesby*, and divers others taken in open Rebellion and actual War against the King and Kingdom, whom we have here in Custody must expect no Favour or Mercy.

P p p p

And

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The Answer
of Nat. Finnes
Governor, and the
Council of
War in the
City of
Bristol.

A Letter in
behalf of the
Prisoner.

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And by God's Blessing upon our just Cause we have Pawns enough for our Friends Security, without taking in any that have gotten out of our Reach and Power, although divers of yours of no mean Quality and Condition have been freely released by us. Given under our Hands the 18th of May 1643.

*Nath. Fiennes, Prefident,
Clem. Walker, &c.*

CHARLES REX.

Trusty and well-beloved, we greet you well: Whereas we are informed, that by the Power and Authority of certain factious and rebellious Persons of that our City of *Bristol*, divers of our good Subjects, as namely, *Robert Yeomans, George Boucher, William Yeomans, Edward Dacres*, and others of that our City, are imprisoned for preserving their Duty and Loyalty to us, and for refusing to join in or assist this horrid and odious Rebellion against us; and that the said wicked and traitorous Persons have presumed to condemn the said innocent Men to die, and upon such their Sentence notoriously against the Laws of God and Man, they intend to execute and murder our said Subjects; we have thought fit to signify to you the Mayor, Aldermen, Sheriffs, and the rest of the Body of the Council of that our City, That if you suffer this horrid and execrable Murder to be committed upon the Persons aforesaid, and thereby call down the just

Judgment of God, and bring perpetual Infamy upon that our City, we shall look upon it as the most barbarous and inhumane Act that hath been yet committed against us, and upon you as the most desperate Betrayers of us, and of the Lives and Liberties of your Fellow-Subjects. And we therefore will and command you not to suffer any Violence to be done upon the Persons aforesaid, but that if any such be attempted against them, you raise all the Power and Strength of that our City, for their Rescue. And to that Purpose, we command all our good Subjects of that our City, to aid and assist you upon their Allegiance, and as they hope for any Grace and Favour at our Hands, and that you and they kill and slay all such who shall attempt or endeavour to take away the Lives of our said Subjects. And for so doing, this shall be your Warrant, and hereof you may not fail at your utmost Peril. Given at our Court at *Oxford*, the 26th Day of May, 1643.

*To our trusty and well beloved, the
Mayor, Aldermen and Sheriffs,
and the rest of the Common-Council
of our City of Bristol.*

But this Letter came too late, or at least could not hinder the Execution, for on *Tuesday* the 30th of May, Mr *Yeomans* and Mr *Boucher*, were brought from the *Castle* to the main Court of Guard and there suffered.

Sir Alexander
Carew.

Proceedings against Sir ALEXANDER CAREW,
Bart. for adhering to the King and betraying his
Trust, before a Court-Martial at Guildhall. Anno
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THE Charge against Sir *Alexander*, was founded on the second and third Articles of a late Ordinance of Parliament, which made it Death to adhere to the Enemy, or to betray or surrender any Fortrefs to his Majesty; and set forth that when the Wars began the Town of

Plymouth was looked upon as a most considerable Place, and the Island of *St Nicholas* was so appendant to it, that *Plymouth* could not be safe unless that were secured: And therefore to secure them both, Sir *George Chidleigh* was pitched upon Governor, and took a Commission from

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from the Earl of *Essex*; and by Deputation from him, by consent of Parliament, the Charge and Government of the Island was entrusted to this Sir *Alexander*, who had deserted that Trust, adhered to the Enemy, and endeavoured to betray that Island and the Forces therein; which was offered to be made out by proving, that he had Intelligence with Colonel *Edgecomb* and Major *Scawen* of the King's Party, not only by Letters but by personal Conference several times at Midnight in their own Quarters; that he had slandered the Parliament and their Proceedings, and justified the King's Proceedings against the Parliament; and magnified the King's Power and Victories, and given the Parliament's Cause for lost; that he had endeavoured to Work upon his Soldiers and Officers by promising them Pardons; that he had declared his Resolution to hold that Island for the King, and endeavoured to put that Resolution in Practice, by putting himself in a Posture both defensive and offensive against the Parliament's Forces, and seeking to bring the Forces of the Enemy into the Island, which he had effected but that his own Soldiers took him *flagranti Crimine*, in the very manner. For manifesting these particulars, several Witnesses, as Mr *Francis*, the Mayor of *Plymouth*, Mr *Willis* and Mr *Bandal*, two Ministers, Captain *Hancock*, *John Deep*, Merchant, and *Arthur Skinner*, Gentleman, were produced, and his own Confession and Examination read.

Many of those Actions Sir *Alexander* denied, but his chief Plea was, that the Ordinance did not look backwards, but only forward; and therefore he ought not to be tried for them on this Ordinance, since the matters objected were done and transacted long before the Ordinance was made, viz. about the Month of *August*, 1643.

To which *Mills* the Advocate replied, I. That his Defence, grounded upon the Ordinance of Parliament, was not only insufficient, but seemed to reflect on the Wisdom and Justice of the Parliament. II. That these Exceptions of his arose from a great Mistake; for the two Articles they proceeded upon against him, viz. the second and seventh, do both look back as well as forward; and indeed do not create or make any new Crime, but declare the Punishment of what was before; and at all Times, Treachery and Treason in War, which by all the Laws Civil is

Death. And so the Court proceeded to sentence that he should be beheaded.

On the *Saturday* following his Sentence, his Lady presented a Petition to the House of Commons, setting forth, That Sir *Alexander* was in a kind of distracted Condition, and unfit to die, and therefore prayed he might be reprieved; whereupon a Committee was sent to visit him and report his Condition, who declared him not to be distracted; however, that he might have Time to settle his Estate, and prepare himself for Death, Execution was respited for above a Month, viz. until *Monday, December 23*, when he was brought by the Lieutenant and his Officers to a Scaffold erected on *Tower-Hill*, where he made a Speech, observing, that his greatest Enemy could only charge him with a Suspicion of the Fact for which he was condemned; and that he was assured of Eternal Peace and Happiness after the Dissolution of his Body, as his Father was before him; after which he submitted to the Block, and the Executioner struck off his Head.

The Lord *Clarendon* relates, That at the breaking out of the Civil War, *Plymouth* was esteemed one of the most considerable Towns in the West of *England*; that there was in it a strong Castle towards the Sea, with good Platforms and Ordinance; and about a Musket Shot from the Town, there was an Island with a Fort in it, much stronger than the Castle; and that the Mayor and Corporation of *Plymouth* seized both the Castle and Island, and kept them for the Parliament: And as a Reward for that Service, the Parliament committed the Government thereof to the Mayor, subject however to the Directions of a Committee, who were appointed to reside there for their Assistance, and to conduct their Affairs in that Part of the Country: Of which Committee the abovesaid Sir *Alexander Carew* was one, a Gentleman of a good Fortune in *Cornwal*, who served in Parliament a Knight for that County, and had from the Beginning of the Parliament concurred in all Conclusions with the most Violent, with as full a Testimony of that Zeal and Fury, to which their Confidence was applied, as any Man. To him the Custody and Government of that Fort and Island, which was looked upon as the Security of the Town, was committed, and a sufficient Garrison put into it. The Mayor commanded the Castle and the Town, about which

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which a Line was cast up of Earth, weak and irregular.

After the Battle of *Stratton*, and the King's Forces prevailing so far over the West, that *Bristol* was taken by them, and *Exeter* closely besieged, Sir *Alexander Carew* began to think his Island and Fort would hardly secure his Estate in *Cornwal*, and understood the Law so well, (for he had had a good Education) to know, that the Side he had chosen would be no longer the better, than it should continue the stronger; and having originally followed no other Motives than of Popularity and Interest, resolved now to redeem his Errors, and found means to correspond with some of his old Friends and Neighbours in *Cornwal*, and by them to make a direct Overture to surrender that Fort and Island to the King, upon an Assurance of his Majesty's Pardon, and a full Remission of his Offences. Sir *John Berkley*, who then lay before *Exeter*, was the next Supreme Officer qualified to entertain such a Treaty, and he instantly by the same Conveyance, returned him as ample Assurance of his own Conditions as could be, with Advice, that he should not upon any Defect of Forms (which upon his

Engagement should be supplied with all possible Expedition to his own Satisfaction) defer the consummating the Work, which hereafter possibly might not be in his Power to effect: Designs of that Nature being to be consulted and executed together; for in those Cases, according to *Mutianus in Tacitus*; *Qui deliberant, desciverunt*; and the greatest Danger attends the not going on. But he was so fottishly and dangerously wary of his own Security (having neither Courage enough to obey his Conscience, nor Wick- edness enough to be prosperous against it) that he would not proceed 'till he was sufficiently assured that his Pardon was passed the Great Seal of *England*; before which Time, tho' all imaginable Haste was made, by the Treachery of a Ser- vant whom he trusted, his Treaty and Design was discovered to the Mayor and the rest of the Committee: And accord- ing to the Diligence used by that Party in cases of such Concernment, he was suddenly, and without Resistance sur- prised in his Fort, and carried Prisoner into *Plymouth*, and from thence by Sea sent to *London*, where he was condemned by a Court-Martial, and executed as a- bove related.

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Sir John Ho-
tham

Proceedings against Sir JOHN HOTHAM Baronet, late Governor of Hull, for adhering to the King, and betraying his Trust, before a Court-Martial of Officers of the Parliament-Army (whereof Sir WILLIAM WALLER was President) held at Guild- hall, in November and December Anno. 1644, 20 CAR. I.

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The Charge
against him.

THE principal Articles insisted on against Sir *John* to manifest his Treachery to the Parliament, and his adhering to the King, were his Correspondence with the Lord *Digby* and the Mar- quis of *Newcastle*, the King's Generals; his refusing to supply the Lord *Fairfax* with Arms and Ammunition, and his uttering divers scandalous Words against the Parliament and their secret Commit- tee; his conspiring to deliver up the Town of *Hull*, of which he was Go-

vernor, to the Loyalists; his planting Cannon on the Top of the Castle to fire at the Parliament's Ships; his abandon- ing the Town of *Beverly*, and his en- deavouring to make his Escape when he found his Treachery was discovered: Which Facts were attested by thirty Wit- nesses whose Examinations took up all the first Day of the Tryal.

On Monday, December the 2d Sir *John* was permitted to make his Defence; wherein,

I. He

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I. He set forth his Services and Faithfulness to the Parliament, in defending the Town of *Hull* against his Majesty at the Beginning: then descending to Particulars;

II. As to his Treaties with the Lord *Digby* and the Marquis of *Newcastle*, he said, 'That he had two Treaties before with the Enemy, which (though concealed for the Time) were afterwards received with general Approbation.' And he believed that he might at any time do the like, when it was for the Advantage of the Parliament.

III. His Treaty with the Lord *Digby* fell out thus: Captain *Moyer*, about the time of the coming in of the *Providence*, which was the first Ship that furnished his Majesty with Arms, sailing forth to meet her, met with a Ketch in the River *Humber*, wherein was the Lord *Digby* in the Disguise of a Frenchman, Colonel *Asburnham*, and Sir *Edward Stradling*, whom he brought into *Hull*; and after they had been detained there some Space, the Lord *Digby* passing still for a Frenchman, and not known to the Prisoner or any other to be otherwise, sent to speak with the now Prisoner, and told him, 'That he was a Soldier of Fortune, and if he would give him his Liberty, he would go to the Enemy, and give him Intelligence of their Designs;' which accordingly he did upon his Parole, and returned several times; but at last gave him the Slip, and then sent a Letter, acquainting him that he was the Lord *Dig-*

by, and wishing him to return to his Allegiance: After which he had no farther Treaty with him.

IV. That his Treaty with the Marquis of *Newcastle* was upon Design, that he might still keep the East-Riding of *Yorkshire* free for the Maintenance of *Hull*, then very destitute of Money, whereas otherwise the Marquis would have entred those Parts, and plundered them.

V. As to the Letters under his own Hand sent to the Marquis of *Newcastle*, and now shewed him, he alledged, that he knew not whether they were his Hand or no, but others might counterfeit them.

VI. He produced divers Witnesses on his Behalf, whose Testimonies chiefly tended to invalidate the Credit, and take off the Evidence which had been deposed against him. And the next Day, having desired that his Sons Mr *Charles* and Mr *William Hotham*, might be heard; the Court (although not usual) granted it: They spake largely for the most part to the same purpose; and on Wednesday Sir *John* concluded his whole Defence; but his Allegations not being satisfactory to the Court, they, on Saturday, December 7, proceeded to Sentence; which was, 'That he should suffer Death, by having his Head cut off,' which was appointed to be done on Monday December the 16th; but, on his Lady's Petition for time to settle his Estate, it was deferred.

The Circumstances of his Execution will be found immediately after the Tryal of Captain Hotham, his Son.

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Proceedings against Captain JOHN HOTHAM, Eldest Son of Sir JOHN HOTHAM, for adhering to the King, and betraying his Trust, before the same Court-Martial that tryed his Father at Guild Hall, in the Month of December, Anno 1644. 20 CAR. I.

Captain Hotham.

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The Charge against him.

THE principal Articles of the Charge against Captain *Hotham* were;

I. That he had been disobedient to the Command of the Lord *Fairfax*, who by Commission from the Lord General, was made Commander in Chief of the Northern Counties.

II. That he had refused to give Account of the Parliament's Money raised in *Yorkshire*, but converted it to his own Use.

III. His adhering to the Enemy was proved by several Instances, of his going into the Quarters of the King's Forces, and returning without any Engagement.

Q q q

IV. His

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IV. His several private Treaties, under pretence of exchanging of Prisoners; and private Discourse with the Earl of Newcastle two several times by his own Confession; and that the Earl offered him that he should be made a Lord, and have General Goring's Place, or any other Honours, if he would turn to them.

V. His omitting several Opportunities to fight with the Enemy, particularly his permitting a Convoy from the Queen, with Arms, upon her first Landing at Burlington, to pass to York without Opposition.

VI. That another time in *Lincolnshire*, Lieutenant General Cromwel being with the Prisoner upon an Expedition, the Prisoner was to charge the Enemy's Right Wing and Cromwel the Left; the latter did charge and routed and chafed them two Miles, when returning, he found the Enemy's Right Wing unbroken, and the (now) Prisoner not to have charged at all.

VII. That he being, upon the Discovery of some of his Treacheries, committed Prisoner to *Nottingham Castle*, whilst he was there, sent his Servant, one *John Keys* (first swearing him to Secrecy) with a Message to the Queen then at *Newark*, to signify to her Majesty how he was imprisoned, and speedily to be sent up to the Parliament, or to the Lord General; therefore desired her Majesty would be pleased to send a Party to rescue him: That he had a Regiment of Horse under his Command, and should be ready to do her Majesty the Service she expected in *Lincolnshire*; and that his Company of Foot at *Lincoln*, the Towns of *Hull* and *Beverly*, and the Ship called the *Hercules*, should all be at her Service: And the said *Keys* desiring a Token, whereby her Majesty might credit him, the Prisoner told him, 'By the same Token, that he sent her Majesty a Letter by one of her own Doctors of Physick, where she might land in *England*.' And farther the said *Keys* deposed, That he repairing accordingly to *Newark*, and delivering his Message, her Majesty said, *This unhappy Accident had not fallen out, had Captain Hotham come away when he first resolved of it: Whereupon the Lord Digby* standing by, said, *Your Majesty knows that both he and his Father had come in long since, but for doing your Majesty better Service, by forbearing it for a time.* That her Majesty sent back a Message by the said *Keys*, both to *Sir John Hotham*,

and to his Master Captain *Hotham*, but said, *That Sir John and his Son might have done these Things long before, and that they should both be freely pardoned both by his Majesty and herself.*

VIII. That after this, being released out of *Nottingham Castle*, he went to *Lincoln*, and gave out many scandalous and invective Speeches against the Parliament to Colonel *Rositer*, with some Enticements to betray his Trust; saying, *You shall see in a short time there will be never a Gentleman but will be gone to the King.*

IX. That the Prisoner going from *Lincoln* to *Hull* to his Father, presently after both his Father and he received Letters from the Earl of *Newcastle* about betraying of *Hull*, and other matters; and the Day before he and his Father were apprehended at *Hull*, viz. *June 28th, 1643*, the Prisoner wrote to the Earl of *Newcastle* an Answer to his Letters, which was found in his Chamber, having not time to send it away; which Letter followeth.

My Noble Lord,

'I confess it is a very great Comfort to me in my distracted Condition, that I am blest with a Friend who hath so much Truth and Nobleness. It is true, the Fickleness of those Men reduced me into Uncertainty, as that I never knew in what Condition I stood; and so could not give you Satisfaction then according, as it may be, you expected; yet you will not find that ever I shewed or communicated your Letters to any but those who were privy to it, and can add to the Advancement of the Business in hand, and not any ways to abuse you as some would make you believe. The Malice of my Enemies hath been violent against me, but God hath delivered me out of their Hands. I never expected better from the Popularity; for none of those ever rewarded their best Citizens with any thing but Death or Banishment. As I resolved I would never forsake the Party I had undertaken until they had (without all Cause given by me) so disoblinded me, that no Man can think that my Honour or Honesty is farther engaged to serve them: I confess I now think myself a Free Man from them, and resolve by the Grace of God never to serve them more. I cannot yet attend your Lordship, but I shall mightily deserve you, until Business be well framed

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'framed here, which, I hope, will be
'shortly: If I could but obtain so much
'Favour from you, that Sir *Hugh Cholm-*
'*ley* might be commanded to forbear
'the East-Riding one Fortnight, else we
'shall be necessitated to be at Blows with
'them continually; not that he can do
'any harm here, but he will mightily
'trouble us, whilst greater Business should
'go forward. I shall desire to know,
'whether — were executed after his
'Pardon. My Lord, if I be taken the
'second time, it shall be much against
'my Will, especially by those that call
'themselves my Friends. As soon as I
'have dispatched, I intend to know your
'Commands to,

*Your most humble and
affectionate Servant,*

Hull, Jan. 18,
1643.

JONH HOTHAM.

P. S. *If you please to exchange Captain
Wray for Mayor Anderson, I shall send
him to you.*

The examining Witnesses took up *Mon-*
day and *Tuesday*. On *Thursday* the Cap-
tain was brought to make his Defence,
which continued that Day and the next,
and part of *Saturday*. The matters chief-
ly insisted on, were;

I. As for his Treaties with the King's
Party, the same were for the Parliament's
Advantage; and for settling a Course for
the exchange of Prisoners, and the like,
which he conceived he might safely do
without acquainting the *Generalissimo*; and
to that purpose pleaded the Privilege of
Commanders, and the Examples of divers
in the like case; farther urging, that he
knew of no Law against it, nor that
it was prohibited by the Ordinance of
War.

II. That before he ventured upon such
Treaties, he still had the Advice of his
Commander in Chief, viz. Sir *John Ho-*
tham, and some of his own Captains.

III. As for his not fighting the Queen's
Convoy in their Passage from *Burlington*
to *York*, he insisted that they were strong-
er than he, yet he ventured and charged
their Rear as far as he might with Safety;
and that he had learned this Maxim of
War; *That a Commander in chief is not
to adventure upon an Enemy, but either
upon an Advantage, or compelled by Ne-*
cessity.

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IV. Touching the Business betwixt him
and Lieutenant General *Cromwel* in *Lin-*
colnshire, he offered to prove, that he did
charge the Enemy's Right Wing to the
utmost, though it proved not so effectual
as Lieutenant General *Cromwel's* Charge
on the other Wing.

V. That when he was committed to
Nottingham Castle, not knowing his
Crimes, or by whose Order he was se-
cured, he sent to his Father to *Hull*, to
enquire the Cause thereof; but denied he
sent his Servant to *Newark* to the Queen,
as is alleged; and made many Objections
against the Testimony of *John Keys* con-
cerning that matter.

VI. That the Words spoken to Colonel
Rosciter after he was released from *Not-*
tingham Castle, were in his Passion; but
he recalled them upon his better coming
to himself, and was very sorrowful for
them, desiring that his Errors in Passion
might not be drawn into Crimes.

VII. He alleged, that had he intended
to have deserted the Parliament, he should
have broke it some ways to some of his
Officers, and allured them to join with
him in the same Design, which, he was
confident, it would now be proved that he
did.

VIII. He confessed that after he came
to *Hull*, before he was last apprehended,
he did receive a Letter from the Earl of
Newcastle, and his Father another; and
that by his Father's Direction he wrote a
plausible Answer (being the Letter seized
in his Chamber before it was sent away)
to the Earl, the better to hold him in
hand, that they might enlarge their Quar-
ters about *Hull*, which otherwise had been
much straitned.

IX. To corroborate all which, and
take off the Credit of the Evidence against
him, he produced a great Number of Wit-
nesses, who being heard, the Advocate
replied, and on *Tuesday*, December 24th,
he received Sentence to be beheaded.

On *Saturday*, December 28th, a Mes-
sage was sent from the Lords to the Com-
mons, with a Petition from Sir *John*
Hotbam, praying a Pardon as to Life, for
himself and his Son; and that the Lords
upon the same Petition were willing to
grant Sir *John Hotbam* his own Life, and
desired the Concurrence of the House of
Commons therein, which occasioned a
long Debate, and was resumed again on
Monday, and then carried in the Negative.
So that on *Tuesday*, the last of December,
being the Day formerly appointed for Sir
John's

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John's Execution, great Multitudes of Spectators were assembled; and the Scaffold, his Coffin, the Executioner, and all things were in a Readiness; but about eleven of the Clock in the Forenoon, as he was coming from the *Tower* towards the Hill attended by the Lieutenant and the Provost-Martial and the Guard, and divers Gentlemen and Ministers, a Messenger came riding with a Reprieve from the House of Peers, directed to the Lieutenant of the *Tower*, and Provost-Martial, requiring them to defer the Execution, until *Saturday* following, upon which he was carried back to the *Tower*.

The House of Commons having Notice, that the Execution was deferred, they not assenting nor being privy to any Reprieve, sent Order to know the Cause why Execution was not done upon Sir *John Hotbam*, who the next Day, *Jan.* the 1st, 1644-5, acquainted them with the said Reprieve from the House of Peers. The Commons, after some Debate, passed an Order, That no Officer or Ministers of Justice shall hereafter stay the Execution of Justice, upon any particular Order or Reprieve from either House of Parliament, without the Concurrence of both Houses; and this Order to be sent to the Commissioners for Martial Law, to the Lieutenant of the *Tower*, and the Provost-Martial: And farther ordered, that the Lieutenant of the *Tower* do proceed to the Execution of Sir *John Hotbam* according to the Sentence of the Court-Martial.

Hereupon finding no hopes of the Father's Pardon, the following Petitions were immediately preferred on Behalf of the Son, both written with his own Hand, who was on this very Day appointed to suffer.

To the Right Honourable the House of Peers in Parliament,

The humble Petition of Captain John Hotbam,

Humbly sheweth,

' That he acknowledgeth, that he hath justly merited your heavy Displeasure, and deserveth the greatest Punishment that can be inflicted upon him, for that he hath requited your abundant Favours with Ingratitude, Arrogance and Folly. He well knows that he deserves not any Mercy, neither should he have moved you in it, if your Honours Clemency,

his desolate Family, the Tears and Lamentations of a poor Wife and helpless Children did not move him to sue for Mercy. He hath forborn to trouble you, or interrupt your good Intentions, whilst there was Hope of Mercy to his distressed Father; but hearing to his great Grief, that Sentence is unrevoked, he is bold to present his miserable Condition to their merciful Consideration.

' And humbly prays, that, whereas a Sentence of Death is passed upon him by the Council of War, that you would mitigate his Punishment, and change it into a Fine or Banishment, or both;

' And your Petitioner Will daily and duly pray, &c

JOHN HOTHAM.

These Petitions not prevailing, Captain *Hotbam* was on the same Day, viz. the first of *January*, about Noon brought to the Scaffold on *Tower-Hill*, where Mr *Coleman*, Minister of the *Tower*, made a Prayer, Captain *Hotbam* joining with him, and after that the Captain made a Prayer himself; and then rising up, and turning to the People, he spake as followeth,

Gentlemen,

' You see in what a Condition I stand, you all come here to look upon me as a Spectacle of Shame and Justice; and I believe many of you are possessed with Apprehension of great Crimes and Treasons that I have committed against the Parliament. These Things I must declare to you all, this Conscience knows no guilt of; what I have advanced the Parliament's Cause is notorious, and that I did never disadvantage it, I think is proved also. I have been very violent in the Parliament, and did many Things according to the Swing of the Times; I did engage myself in their Cause, I did them Service in possessing of *Hull*: I preserved the Forts, Magazine, Towns and Forces, and never miscarried in any Attempt. It hath pleased God to bring me to this End for my Sins against him, which I acknowledge to be just; but not for any Treason against the Parliament, neither do I know any Treason or Intention of Treason in my poor Father, who lies in the same Condition that I do, whatever other Men do call Treason: This

Captain
Hotbam's
last Speech.

He was
moved by
the Petition.

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'I testify to all here.' — And having spoke some other Words to the same Purpose, Mr Coleman prayed again, and the Prisoner prepared himself for the Block; whereon having laid his Head, the Executioner at one Blow severed it from his Body, which his Brother Mr Durant Hotbam standing by, took up, wrapt in a Scarf, and laid it together with his Body in the Coffin.

The next Day his Father, Sir John Hotbam, was conducted to the same Place, where Mr Peters attending him, first told the People, That it was the Desire of Sir John Hotbam, that since he had in his Chamber fully discovered his Mind to him and other Ministers, many Questions might not be put to him, but that he might have Liberty to speak only what he thought fit concerning himself. Then Sir John coming up to the Rail, put off his Hat and spake as followeth.

Gentlemen,

'I know no more of myself but this, that I deserve this Death from Almighty God, nay that I deserve Damnation, and the severest Punishments from him. But as for the Business of Hull, the betraying it from the Parliament, the Ministers have all been with me, and give me good Counsel, neither was I any ways guilty of it, that is all I can say to that Act; for other Offences, rash Words, Anger, and such Things, no Man hath been more guilty. I beseech God to forgive me. I have received as many Favours as any Man from God, and I have been as ungrateful as any Man could be; but God Almighty (I hope) has forgiven me my Sins, and I desire you all to pray to God for me, that I may be forgiven.

'I hope God Almighty will forgive me, the Parliament, and the Court Martial, and all Men that have had any thing to do with my Death. And Gentlemen, I thank this worthy Gentleman *, for putting me in Mind of it, and I pray God bring more things into my Memory: And Gentlemen, look to it all as I; I have received many Mercies from God, and have been unfruitful, ungrateful to him under them, and God Almighty hath let me see, that tho' for this Offence whereof I am accused, he hath not done it; yet he hath brought this Affliction upon me to save my Soul by and through the Merits of

'Jesus Christ. For alas! this Affliction is nothing to all my Sins; God Almighty kept me from my Tryal at St Alban's and other Places, to bring me to this Place, that I hope I shall glorify God in him, and his blessed Name be for ever glorified.'

Then Mr Peters spake again, and told the Audience that he had something farther to commend unto them, from Sir John Hotbam, which was, 'That he had lived in abundance of Plenty, his Estate large, about two thousand Pounds a Year at first, and that he had gained much more to it: That in the Beginning of his Days he was a Soldier in the Low Countries, and was at the Battel of Prague; That at his first going out for a Soldier, his Father spake to him to this Effect; Son! when the Crown of England lies at Stake, you will have fighting enough. That he had run through great Hazards and Undertakings, and now coming to this End, desired that they would take Notice in him, of the Vanity of all Things here below, as Wit, Parts, Prowess, Strength, Friends, Honour, or what else.'

Then Mr Peters having prayed, and after him Sir John, they sung the 38th Psalm, and Sir John kneeling behind the Block, spent above a quarter of an Hour in private Prayer, after which lying down, the Executioner at one Blow did his Office.

The Lord Clarendon has left us the following Account of Sir John Hotbam's opposing his Majesty's Admission into Hull at first, and afterwards espousing the King's Interest: He says this Gentleman was of a fearful Nature and perplexed Understanding, and could better resolve upon Deliberation than on a Suddain; and many were of Opinion, that if he had been prepared dextrously beforehand, and in Confidence, he would have conformed to the King's Pleasure: For he was Master of a noble Fortune in Land and rich in Money, of a very ancient Family, and well allied; his Affections to the Government very good, and no Man less desired to see the Nation involved in a Civil War than he: And when he accepted this Employment from the Parliament, he never imagined it would engage him in Rebellion, but believed that the King would find it necessary to comply with the Advice of his two Houses, and that the Preserving that Magazine from being possessed by him, would like-

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Sir John
Hotbam's
last Speech.

Sir John
Hotbam's
Character.

He was
sweated
by
Mr Peters.

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wife prevent any possible Rupture into Arms. He was now in great Confusion, and calling some of the chief Magistrates and other Officers together to consult, they persuaded him not to suffer the King to enter into the Town. And his Majesty coming within an Hour after his Messenger, found the Gates shut, and the Bridges drawn, and the Walls Manned, all things being in a readiness for the Reception of an Enemy. Sir *John Hotham* himself, from the Walls, with several Professions of Duty, and many Expressions of Fear, telling his Majesty that he durst not open the Gates, being trusted by the Parliament; the King told him, That he believed he had no Order from the Parliament to shut the Gates against him, or to keep him out of the Town. He replied, That his Train was so great, that if it were admitted, he should not be able to give a good Account of the Town. Whereupon the King offered to enter with twenty Horse only, and that the rest should stay without: The which the other refusing, the King desired him to come to him that he might confer with him, upon his Princely Word of Safety and Liberty to return. And when he excused himself likewise from that, his Majesty told him, That as this Act of his was unparralled, so it would produce some notable Effect; that it was not possible for him to sit down by such an Indignity, but that he would immediately proclaim him Traytor, and proceed against him as such; That this Disobedience of his, would probably bring many Miseries upon the Kingdom, and much Loss of Blood; all which might be prevented, if he performed the Duty of a Subject; and therefore advised him to think sadly of it, and to prevent the necessary Growth of so many Calamities, which must lie all upon his Conscience. The Gentleman with much Distraction in his Looks, talked confusedly of the Trust he had from the Parliament, then fell on his Knees, and wished that God would bring Confusion upon him and his, if he were not a loyal and faithful Subject to his Majesty; but in Conclusion, plainly denied to suffer his Majesty to come into the Town.

The Lord *Digby* being taken Prisoner in the Year 1642, by a Ship of War belonging to the Parliament, in his Passage to *Holland*, and being brought Prisoner to *Hull*, was so disguised as not to be known, till he discovered himself to Sir *John*

Hotham the Governor, into whom he so artfully insinuated himself, that the Governor agreed to change Sides, and deliver up the Town to the King, on his Majesty's appearing before it; with which Assurance the Lord *Digby* being privately dismissed, acquainted his Majesty. And thereupon some Regiments of Militia, commanded by the Earl of *Lindsey*, were ordered to appear before that Fortress; but on their Approach, they found no Disposition in the Garrison to open the Gates and admit them: On the contrary, several Shot were fired at the Royalists from the Walls, and they having no Artillery with them, were compelled to abandon the Enterprize. It seems, Sir *John Hotham*, after he had dismissed the Lord *Digby*, had discovered that his Son and the rest of his Officers were more devoted to the Parliament than he expected, and found it was not in his Power to be as good as his Word: Captain *Hotham*, the noble Historian informs us, being grown jealous of some Design of his Father's, and caballing with those who were most notorious for their Disaffection to the Government, had introduced other Officers and Soldiers into the Town after the Departure of the Lord *Digby*, to prevent a Surprize, so that when Lord *Digby* returned to *Hull* with Colonel *Ashburnham*, as he did not many Days afterwards, he observed the Face of Affairs to be entirely changed; but whether Sir *John Hotham* suspended the Design from his Want of Courage, or Want of Power to execute it, remains still uncertain, says the same noble Writer; however, his entertaining the Lord *Digby* and Colonel *Ashburnham*, and afterwards releasing them, increased the Jealousy the Parliament had of him, and was afterwards the Principal Cause of the Loss of his Head: It was only their Confidence in the Son, and Vigilance and Jealousy he was known to entertain of his Father, that induced them at that time to continue Sir *John* longer in his Government, and they had so modelled the Garrison, that they knew it could never be in the Father's Power to do them any Hurt. But after this, when they discovered some Alteration in the Son's Behaviour, and that the Pride and Stubbornness of his Nature would not suffer him to submit to the Command of the Lord *Fairfax*, and that Superiority over both his Father and him, with which the Parliament had invested that Lord, and had some Intimation of

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of secret Messages between the Marquis of Newcastle and young Hotbam, they caused both Father and Son to be suddenly seized upon, and sent up Prisoners to the Parliament, which immediately committed them to the Tower, upon a Charge of High Treason.

Tho' there was Evidence enough against them, yet they had so many Friends in both Houses of Parliament, and some of that Interest in the Army, that they were preserved from farther Prosecution, and remained long Prisoners in the Tower, without being brought to any Tryal, so

that they believed their Punishment to be at the highest: But when that Party prevailed, that resolved to new model the Army, and to make as many Examples of their Rigour and Severity, as might terrify all Men from falling from them, they called importunately, that the two Hotbams might be tried at a Court of War for their Treachery and Treason, and they who had hitherto preserved them, had now lost their Interest, so that they were both brought to their Tryal, condemned and executed, as related above.

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Proceedings against ROGER L'ESTRANGE, Gent.
(afterwards Sir ROGER) for receiving a Commission from the King to deliver up the Town of Lynn, (then a Parliament Garrison) to his Majesty, and endeavouring accordingly to do it; before a Court Martial at Guildhall. 26 Decem. Anno 1644. 20 CAR. I.

L'Estrange.

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THE Court Martial being authorized to try the Prisoner by an Order of the Lords and Commons for the above-said Offence, the King's Commission, which was taken upon Mr L'Estrange, was first produced, as Evidence against him at his Tryal, being of the following Tenor.

CHARLES REX.

'We having received from our trusty and well beloved Roger L'Estrange Declarations of the good Affections of divers of our well-affected Subjects of our Counties of Norfolk and Suffolk, and particularly of our Town of Lynn, as also some Overtures concerning the reducing of our said Town of Lynn, we have thought fit forthwith to return our Royal Thanks unto our said well-affected Subjects; And particularly to give our said trusty and well-beloved Roger L'Estrange these Encouragements to proceed in our Service, principally in the Work of reducing the said Town of Lynn.

'I. That in case that Attempt shall be gone through withal, he the said Roger L'Estrange shall have the Government of the Place.

'II. That what Engagements shall be made unto the Inhabitants of the said Place, or any other Person capable of contributing effectually to that Service by way of Reward, either in Employment in his Majesty's Navy or Forts, or in Monies, not exceeding the Sum of 5000 l. the Service being performed, shall be punctually made good unto them.

'III. That they shall in this Work receive what Assistance may be given them from any of our nearest Garrisons.

'IV. That when our said Town shall be reduced to our Obedience, we shall forthwith send thither such a considerable Power, as shall be sufficient to relieve and preserve them; we being at present (even without this) fully resolved to send a considerable Power, to encourage our faithful Subjects in those

Parts

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'Parts to regain our Rights and Interests there.

Given at our Court at Oxford this 28th of November 1644, by his Majesty's Command,

George Digby.

Then Mr *Leaman*, a Sea Captain of the Town of *Lynn*, appearing as an Evidence against the Prisoner, deposed that Mr *L'Estrange*, being his Acquaintance, sent to him (the Captain) to meet him at Mr *Paston's* House at *Appleton-Hall* near *Lynn*, and that he meeting him there accordingly, Mr *L'Estrange* treated with him, shewed him (the Captain) the said Commission, and promised him 1000 *l.* and Preferment if he would assist him in making a Party within the Town, to deliver it up to his Majesty; whereunto he (the Captain) expressed a Compliance, promising to meet him the next Day to advise farther: But in the mean time acquainted the Governor Colonel *Walton*, who ordered him to go again accordingly, and to take with him a Corporal of his dressed in the Habit of a Seaman, and Mr *L'Estrange* questioning him who he was, the Captain answered, a Man for their turn; and the Corporal told him, that he was a poor Man living in *Fisher's End* in *Lynn*, and kept an Alehouse, and was 40 *l.* the worse for the Round-heads. To which Mr *L'Estrange* reply'd, no matter for that, he should have 100 *l.* for it when the Design was accomplished, and a Cannoneer's Place, which he seemingly appeared well pleased with; but to discover where the Commission was, Captain *Leaman* added, 'Mr *L'Estrange* my Friend by the way as we came questioned what Security or Power you had in Case the Design should be discovered?' and I told him you had the King's Commission, which he desired to be assured 'of.' Whereupon Mr *L'Estrange* stept to an Hole in the Canopy of his Bed, produced the Commission, read it to them, and put in his Pocket. In the Interim one Lieutenant *Stubbing*, with five Soldiers more in the Habit of poor Seamen, came to the Door as desiring Alms, and being got within the Court Yard, the Gentlewoman of the House ran up and told Mr *L'Estrange*, that there were six or seven poor Soldiers come from *Lynn* a Begging, who sent them down 12 *d.* and wished them to be gone; but they rushed into the House, and the disguised Corporal seized Mr *L'Estrange*, who con-

veyed his Commission to Captain *Leaman*, whom the Lieutenant that came with the Party questioned what he did there consulting against the State? and Searching found the Commission, and so carried them both in Custody to *Lynn*, where *Leaman* was discharged as having Acted by Order of the Governor. This was the Effect of what was testified touching the Circumstances of this Affair, and Mr *L'Estrange* upon Examination owned the Commission, and that he intended to have put it in Execution: Which Examination also was read in Court as Evidence against the Prisoner.

The Judge Advocate then made his Remarks upon the Evidence, and observed,

I. That this Commission to the Prisoner, was not the Commission of a Soldier, to raise or conduct any strength or Men of War; but a Commission of Bribery and Corruption, being meerly to make a Party in the Town by Clandestine ways, with Baits and Promises of Money and Preferment.

II. The Prisoner accordingly came with this Commission from the Enemy into the Quarters of the Parliament without Drum, Trumpet, or Pass, which alone brings him within the Danger and Penalty of a Spy.

III. He came attended with no manner of Forces as an Enemy, but all alone in a secret Clandestine manner, and made choice of a Solitary place near *Lynn*, to obscure himself the better to effect his treacherous Design.

IV. That he relied not on the Strength of his own Party to have surprized *Lynn*, but used unwarrantable and treacherous means to accomplish the same; promising *Leaman* 1000 *l.* and Corporal *Hagger* 100 *l.* and a Canoneer's place (both being then of the Garrison) if they would contribute their Assistance therein.

V. His Design was of that Nature, and carried on in so Clandestine a way, as that himself thought not fit to treat upon it without a strict Obligation of Secrecy.

By all which it appears, that as the Prisoner came not into the Parliament's Quarters as a fair and open Enemy, but with treacherous Ends and Practices; so being now taken in the manner, he may not expect the Privilege of a just Enemy, but rather the condign Punishment which by the Law and Custom of Arms belongs to Spies and treacherous Conspirators.

Then

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Then Mr *L'Estrange* entred upon his Defence and insisted,

I. That this Commission is the Commission of a Soldier, enabling him to raise and conduct such a Party as should attempt the Surprizal of the Town. The matter of Money and Preferment is therein expressly propounded by way of Reward; and to pay the Soldiers is neither Bribery nor Corruption.

II. The Article runs, *within the Quarters of the Army*, not *Parliament*; but he was not apprehended within the Quarters of the Army, and therefore no Spy.

III. That he came attended as an Enemy that is enabled to any Act of Hostility whatsoever.

IV. That he relied upon the Strength of his own Party, and used warrantable means to accomplish the Surprize: *Leaman* was not of the Garrison, and though *Hagger* was, yet he appeared not to him under that Notion. But admit they had been both such he could have justified it; for they voluntarily proffered to assist him, who had been a Traytor and a Fool if he had either discouraged or dissuaded him.

V. The Design was of that Nature, that if discovered it were lost (the Quality and Hazard of all Surprizes) and therefore he thought not fit to treat without a strict Obligation of Secrecy.

From all which he inferred that he came not into their Quarters at all; that he came as a fair and open Enemy, never pretending to be any other than he was, and had no treacherous Ends; and therefore being thus apprehended was by the Laws and Customs of War *a just Enemy and Prisoner of War*, no Spy or treacherous Conspirator; and desired farther time to prepare his Defence and produce Witnesses.

The Advocate replied, That the same was unnecessary, for they proceeded on his own Confession, and take the Case as he had set it forth; That his Charge was founded not only on the special Articles and Ordinance of Parliament, but upon the general Rules and Customs of War, which no Soldier ought to be ignorant of; amongst which Laws and Customs nothing is more notorious, than that for any to come into the Enemies Quarters without a Pass, Drum, or Trumpet, makes him a Spy; and then to treat with them of the Garrison, or draw them to treat to betray the Garrison, makes him a traiterous Conspirator.

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Mr *L'Estrange* answered, That nothing in his Confession rendered him guilty of their Charge; the Substance thereof being only that he had ever been of the King's Party, and intended to execute this Commission: That as to Treachery, it was impossible he should betray a Trust he never received, or that he should be both Enemy and Traytor; and inconsistent that the same Law which punishes the Defserter of his Trust with Death, should with Death also punish the Asserter of it.

Judge Advocate: The Prisoner mistakes the Point, he is not charged with Breach of Trust; we do not say he had any Trust, or that he broke any, but that he did tamper with those who had a Trust, and endeavour by offer of Money and Preferment to make them betray it; and so he did plot, and those were to be his Confederates.

L'Estrange: At this rate whoever summons, assaults, or besieges a Place, because in so doing he endeavours surrendering of it to the Enemy, shall be arraigned as a Traytor; the Article involving him in the same Danger with those that endeavour the betraying it; nor hath the Court-Martial by its own Law power to try an Enemy.

Judge Advocate, Speaking to the President: It is not what he says is Law, nor what I say is Law, but what you judge to be Law: The Case is plain, he came without Trumpet, Drum, or Pass, into our Quarters from the Enemy, and there dealt with the Garrison of *Lynn*, and in that Case came not with the Face of an Enemy, but as a Spy.

Mr *L'Estrange* again insisted he was no Spy, because he was apprehended neither in their Garrison nor Quarters; for by the Quarters of the Army, he said, was intended the Place where the Army or some Forces lie enquartered at the time of such Persons Apprehension; but there were none of the Parliament Soldiers quartered at *Appleton Hall*, and where no Forces are, there is neither use nor possibility of a Spy. Besides he added, that if he had been a Spy, he were not triable by that Court, because by the Ordinances whereby they sit, they are restrained to the particular Articles therein specified, amongst which there is none against Spies.

The Advocate said, They proceeded upon a Law Common betwixt them and the Enemy; and read the Ordinance for

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Tryal

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Tryal of the Prisoner, whereby it is ordained, he shall be tried by the *Commissioners for Martial-Law* and proceeded against, according to the *Proceedings of Martial-Law*; whereby that Court was not limited to any particular Article, but are left to the Latitude and Scope of Martial-Law in general, and accordingly had proceeded against the Prisoner upon a known and common Rule of Martial Proceedings, by which his own Party proceed in such Cases, and therefore had no Cause to complain.

To this Mr *L'Estrange* answered, That it was true by the Ordinance he was left to the Commissioners for Martial-Law, to be proceeded against according to Martial-Law, but this must be understood such Martial-Law as they are Commissioners for, which is to be determined by the Ordinance that enables them; for since they are not Commissioners for executing Martial-Law in the Latitude; so neither must their Proceedings be in the Latitude.

Then the Court rising referred the Prisoner to Saturday following: Being called to the Bar he pressed very importunately to be heard, claiming it as promised him, that he should have time till this Day to strengthen and digest his Defence; but this was over-ruled and Sentence passed upon him to be hanged. Then he delivered in a Paper which he said was his Defence, desiring the Court to read it, if they would not hear it.

Then the Day and Place was appointed for his Execution, viz. in *Smithfield*, on Thursday the second of January, (the same Day Sir *John Hotbom* suffered) but in the Interim Mr *L'Estrange* petitioned the House of Peers, complaining that he had received hard Measure, and (in effect) was tried by one Committee, and sentenced by another, &c. and therefore prayed a Suspension of Execution and a Rehearing of his Cause before the Parliament. And about the same time there came a Trumpeter from *Oxford*, with a Letter from his Highness Prince *Rupert*, to the Earl of *Essex*, concerning the said Mr *L'Estrange*, desiring a forbearance of Execution (it being a new case in Point of War as his Highness was informed, for which he is condemned) lest the Example thereof cause the like Usage of such as adhere to the Parliament from his Majesty's Party.

The Lords granted Mr *L'Estrange's* Petition, and on Wednesday, January

the first, sent a Message to the Commons for their Concurrence, and that the Court-Martial be required to certify the State of Mr *L'Estrange's* Case; wherein the Commons after some Debate did agree with their Lordships, and he was Reprieved and continued in *Newgate* several Years after, without any farther hearing; for which, or his Liberty, he made frequent Applications, and at last obtained the latter.

The Lord *Clarendon* informs us, That Mr *L'Estrange* was kept in Prison till the End of the War, and was then set at Liberty as a Person in whom there was no more Danger; however, says the Noble Historian, he retained his old Affections, and remembered more the cruel Usage he had received, than that the Usurpers had not dealt so cruelly with him as they might have done. And having cultivated a Friendship with Mr *Hales*, a Gentleman of *Kent*, Heir to a very great Estate, he prevailed on him at the time the Fleet in the *Downs* revolted from the Parliament, to concert Measures with the Royalists in that County for his Majesty's Deliverance, who was then a Prisoner; and Mr *L'Estrange* took upon him to write Letters to the Country Gentlemen, and sign Warrants to the Constables of each Hundred with his own Name, which had been never heard of in the Country, requiring in his Majesty's Name all Persons to appear at a time and place appointed, to advise together, and to lay hold on such Opportunities as should be offered for relieving the King, and delivering him out of Prison. There was an incredible Appearance of the Country at the Place appointed, where Mr *L'Estrange* appeared with Mr *Hales*, and those Persons which had been used to their Company. Mr *L'Estrange* spoke to them in a Style very much his own, and being not very clear to be understood, the more prevailed over them. He spake like a Man in Authority, inveighed against the Tyranny of the Army, which had subdued the Parliament, against their barbarous Imprisonment of the King, and against a Conspiracy they had to murder him. He added, That the Affections of that noble Country were well known to his Majesty, and that he had therefore appointed the Fleet that was in the *Downs* to join with them; and that he doubted not but they would together be too strong for his Enemies, who were like to have enough to do to defend themselves in many other Places,

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Places, and that his Majesty was willing they should have a Gentleman of their own Country, well known to them, to be their General, and named Mr *Hales* who was present. There was not one Man who so much as asked for any Letter or Commission or other Authority from the King, but all of them very frankly and unanimously declared they would be ready to join and march as their General *Hales* should direct; and so another Day and Place was appointed for another Appearance and lifting and forming their Regiments; and in the mean time Mr *L'Estrange* set out such Declarations and Engagements as he thought most like to prevail with the People, and required that they should be read in all Churches, which was done accordingly. The next Appearance was greater than the former; and with the same forwardness many coming armed both Horse and Foot, and shewing a marvellous alacrity to the Engagement, their General then gave out his Commissions for several Regiments, and a new Day was appointed for their Rendezvous, when all should come armed and keep together in a Body until it should be fit to march to *London*.

It was known that the Fleet was gone out of the Downs, but it was as well known that it had absolutely renounced the Service of the Parliament and rejected all their Officers. It was easy to persuade the People that they were gone upon some important Enterprize, and would speedily return; and it was insinuated that it was gone to the *Isle of Wight* to releave the King, who would return with it into *Kent*, which made them hasten their Preparations.

The Forces under the Earl of *Norwich*, afterwards marched as far as *Blackheath*, in expectation of being joined by their Friends at *London*; but being disappointed by General *Fairfax*'s posting his Army between the Royalists and the City, they retired, one Body of them possessing themselves of *Maidstone*, and the other of *Rochester*; those in *Maidstone* had a sharp Encounter with General *Fairfax*'s whole strength and fought very bravely, but were at length defeated: In the mean time the Earl of *Norwich* marched again towards *London*, in hopes of the City's joining him, and that failing him, passed over the Thames at *Greenwich* in Boats, with as many as were disposed to follow him, to the Number of a thou-

sand Men Horse and Foot, whereof many were Officers and Soldiers who had served the King, and young Gentlemen of Loyal Families who had never appeared in Arms before: In *Essex* they were joined by the brave Lord *Capel*, Sir *William Compton*, Sir *Charles Lucas*, and Sir *George Lisle*, Sir *Bernard Gascoigne*, and other experienced Officers, making a Body of 3000 Horse and Foot, with Officers enough to have formed a much larger Army. And expecting that *Fairfax* would soon follow them, they threw themselves into *Colchester*, where they were soon after besieged by *Fairfax*, the Event whereof I shall have occasion to speak of in a future Proceeding.

This was that *L'Estrange* who received the Honour of Knighthood from King *Charles II.* and wrote so many Essays in that Reign in Defence of the Constitution, and considering the eminent Services he did the Royal Family both as a Soldier and a Writer, he seems to have been but slenderly rewarded. I don't find that all the Hazards he run, and the glorious Efforts he made to deliver King *Charles I.* from his Imprisonment, procured him much more than the empty Title already mentioned; And what is harder still, that Celebrated Historian the Lord *Clarendon*, seems to slight both his Services and his Parts: For speaking of his Attempt to reduce the Town of *Lynn* to the Obedience of his Majesty, he only says that for attempting somewhat in his own Country for his Majesty's Service, he was condemned to die by a Council of War, and seems to reflect on Mr *L'Estrange*'s Gratitude in the same Page, for raising the County of *Kent* to deliver his Majesty out of Prison after the Parliament had given him his Life: He descended so low, as to reflect upon his Oratory when he harangu'd the Royalists in *Kent*, and persuaded them to take up Arms again for the King. For the Noble Historian says, he spoke to them in a Style very much his own, and being not very clear to be understood prevailed the more over them; which was surely a very ill natured reflection both on the Speaker and his Audience, especially when made by a Cavalier; For every Body that has read Sir *Roger L'Estrange*'s Writings, must allow he was capable of making himself understood: Nor is it a very great Complement to the Gentlemen of *Kent*, who readily hazarded their all for

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for the King when his Affairs were become desperate, that they were induced to run these Hazards by Sir Roger's unintelligible Jargon, rather than upon the Motives of Loyalty and Compassion of their imprisoned Sovereign, who was in danger every Day of being sacrificed to the Rage of his Rebellious Subjects.

But thus it was that too many brave Royalists were rewarded after the Restoration. They were left to starve in Rags, while those who had plundered them of their Fortunes, and overturned the Constitution, were suffered to revel in their Spoils, occasioned by that detested Maxim which prevailed in those times; That the surest way to establish the King on the Throne, was *To do good to his Enemies, and neglect his Friends*, of which Sir Roger L'Estrange was an eminent Instance, having spent his whole Life in defence of the Royal Cause, and yet was never thought a fit object of the Royal Bounty, but suffered to remain in strait Circumstances to the end of a very long Life. And too many Instances there were of such suffering Royalists during the Administration of the Lord Clarendon, which possibly contributed in some measure to the fall of that Great Man.

Sir Roger in one of his Essays published in the Year 1661, declares that he verily believed the King was betrayed; That many of his Favours were surrepti-

tiously obtained, and others abused and misapplied by second Hands, that were entrusted to dispose of them better. He likewise said, He that saw *Cromwell's, Bradshaw's, and St John's Creatures*, nay and the meanest of them, laden with Offices and Honours, might give himself a second thought to understand the meaning of it; especially considering how many thousand of Loyal Subjects were ready to perish for want of that which was superfluously scattered among scarce so many single Persons on the other side.

That the Court was dangerously thronged with Parasites; Knaves represented to the King for honest Men, and honest Men for Villains; a Watch upon the King's Ear to keep out better Information; seditious Ministers protected and encouraged; Libels against the King's Authority and Person dispers'd even by his Majesty's sworn Servants; and to discover Treason was in some respect more hazardous than to commit it. Afterwards speaking of the Act of Indemnity, he declared, That Act made the Enemies to the Constitution Masters in effect of the Booty of three Nations, bating the Crown and Church Lands, all which they might now call their own; while those who stood up for the Laws, were by these People, abandoned to the comfort of an irreparable, but an honourable Ruin; advising his Majesty to remember, *That misplaced Mercy was the Destruction of his Father.*

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Judge Jenkins.

Proceedings against DAVID JENKINS, Esq; one of the Welsh Judges for High Treason. Anno 1647. 23 CAR. I.

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Impeached of High Treason.

JUDGE Jenkins was impeached of High Treason by the House of Commons, for that being Defendant in the Court of Chancery, and required to give in his Answer, he offered a Paper to the Court of the following Tenor.

That he could not, nor ought, nor would submit to the Power of that Court; that it was indeed no Court, and their Seal Counterfeit; with much more to the same Purpose.

The Impeachment farther set forth, That he had condemned and passed Sentence on Men to be hanged drawn and quartered for not assisting the King against the Parliament: That he took up Arms himself against the Parliament notwithstanding he was a Judge; and stirred up others to levy War against the Parliament.

Judge Jenkins being brought to the Bar of the House of Commons, on the

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21st of February 1647-8, by the Sergeant at Arms, and commanded to Kneel, refused and boldly denied their Authority, charging them with wronging the King, wishing the Laws might be protected, but that there could be no Laws without the King; Terrifying the Parliament with the King's great Issue, using many other high Words in Derogation of the Parliament and their Authority; In short, his whole Deportment before the House was the very same with his Carriage at the Chancery Bar the last Term.

The House then commanded him to withdraw; They had in debate his obstinate Behaviour and Words, which they voted to be a high Breach of Privilege of the House, and fined him a thousand Pounds for his Contempt.

He was afterwards brought to the Bar of the Commons again, and the Impeachment read to him: And it being demanded what he had to say, he answered, That they had no Power to try him, and would give no other Answer: Then the Witnesses were produced against him, and attested the Truth of the several Facts laid in the Impeachment. Whereupon an Ordinance for attainting the Judge of High Treason

passed that House, and was sent up to the Lords for their Concurrence, which 'tis presumed they did not want; but I do not meet with the Proceedings against this Judge in the House of Lords. It appears however that the Commons were content with his Imprisonment; and after the Lords were voted useless, this Judge was excepted by Name out of an Ordinance for a free Pardon.

Mr *Echard* informs us, that he lived to see the King's Restoration, and three Years afterwards; that he was a *Welshman* by Birth, and had been a *Welsh* Judge for many Years, and being a Person of great Abilities in his Profession, his Counsel was often used by the two great Attorneys *Banks* and *Noy*; And being likewise of an invincible Courage, he became so strenuous an Assertor of the Rights of the King, the Laws of *England*, and the Liberties of the People, in the worst of times, that, besides Imprisonment and other Hardships, his Life was often threatened; which he was always prepared to lose with his Bible under one Arm and *Magna Charta* under the other. Being now arrived at a good old Age, he peaceably resigned his Breath at his own Estate in *Glamorganshire*.

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Proceedings of the Army against eleven Members of the Commons. Anno 1647. 23 CAR. I.

Eleven Members.

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The Charge against them by the Army.

THE Commons having voted to disband the Army on the 27th of April 1647, occasioned the following Impeachment of eleven leading Members of that House, viz.

June the 16th, 1647.

The Heads of a Charge delivered in the Name of the Army, under the Command of Sir *Thomas Fairfax*, unto the Commissioners of Parliament, now with the Army at *St Albans*, to be by them sent up to the Parliament against *Denzil Hollis*, Esq; Sir *Philip Stapleton*, Sir *William Lewis*, Sir *John Clotworthy*, Sir *William Waller*, Sir *John Maynard*, Knight, Major General *Massey*, Mr *Glynn*, Recorder of *London*, Colonel *Walter Long*, Colonel *Harley*, and *Anthony*

Nichols, Esq; Members of the House of Commons, jointly and severally as followeth.

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I. That contrary to the Trust reposed in them the Persons abovenamed, Members of the House of Commons, have jointly, or severally, invaded, infringed, or endeavoured to overthrow the Rights and Liberties of the Subjects of this Nation, in arbitrary, violent, or oppressive ways (and in this Case where no pretence was, or could be of the exigence of War, or other Necessities which might justify or excuse the same) and they have likewise endeavoured by indirect and corrupt Practices to delay and obstruct Justice, to the great Damage and Prejudice of divers of the poor Commons of *England*, petitioning for the same.

T t t t

II. That

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II. That this Army being till the middle of *March* last in a quiet and orderly Condition and Posture, free from any colour or appearance of Distemper or Disorder, or from Offence to any, and ready (upon reasonable satisfaction in their necessary Dues for Service past) either quietly to have disbanded, or else to have engaged in the Service of *Ireland*, the Persons abovenamed have jointly, or severally, endeavoured by false Informations, Misrepresentations, or scandalous Suggestions against the Army, to beget Misunderstandings, Prejudices or Jealousies in the Parliament against the Army; and by deluding, surprizing, or otherwise abusing the Parliament, to engage the Authority of Parliament to such Proceedings, as to put insufferable Injuries, Abuses, and Provocations upon the Army, whereby to provoke and put the Army into a Distemper, and to disoblige and discourage the same from any farther Engagement in the Parliament's Service. By all which and other the like Particulars and Proceedings of theirs, the Peace of the Kingdom has been imminently endangered, and the Relief of *Ireland* retarded.

III. That whereas the Parliament might otherwise have had out of this Army an entire Force, and answerable to their Proportion designed to have engaged for *Ireland*, as aforesaid, under their old Officers and Conduct, the Persons abovenamed for advancement of their own Ends, Faction and Design, to the Prejudice of the Publick, have jointly or severally, under Pretence of the Service of *Ireland*, endeavoured by such evil Practices as before, to break and pull this Army in Pieces, to the weakening of the Power, and endangering of the Safety of Parliament and Kingdom; And have likewise endeavoured to put the Parliament and Kingdom to the Trouble, Hazard, Delay, and vast Expence of raising a new Force, as for that Service.

IV. That with the breaking of this Army as aforesaid, they have in the like manner endeavoured, under pretence of the Service of *Ireland*, to raise a new Force as before, to advance and carry on desperate Designs of their own in *England*, to the Prejudice of the Parliament and Publick; And in pursuance of the same, have endeavoured to divert the Forces engaged as for *Ireland*, and unto such their purpose as aforesaid here in *England*; And have in like manner endea-

voured to have gained a Power from the Parliament for themselves, or some of them, of diverting and misemploying those Forces aforesaid, and to raise new Forces under pretence to guard the Parliament; And (not having obtained that) have in like manner endeavoured privately to lift and engage Officers and Soldiers, or procure them to be lifted and engaged without the Authority of Parliament, for the raising of, and embroiling the Kingdom in a new and bloody War, and to interrupt and hinder the settling and securing the Rights, Liberties and Peace of the Kingdom, and for the settling, upholding and protecting of themselves and their Accomplices, in their unjust, oppressive and factious Designs and Proceedings.

V. That they have jointly or severally invited, encouraged, abetted, or countenanced divers Reformados and other Officers and Soldiers tumultuously and violently to gather together at *Westminster*, to affright and assault the Members of Parliament in passage to and from the House, to offer Violence to the House itself, and by such Violence, Outrages and Threats, to awe and enforce the Parliament.

The several Heads of Charge the Army will, by such Soldiers as they shall appoint, (when the House of Commons shall admit thereof) make good in Particulars each Head against some of the Persons, and some one Head or more against each of the Persons; and shall shortly give in the several Particulars against each Person respectively, which shall be made good by Proofs, the Army desiring to save and reserve to themselves the Liberty of exhibiting any farther Charge against all or any of the said Persons.

Farther Proposals delivered to the Commissioners of Parliament, June 17th, which relate to the Impeached eleven Members.

I. That in pursuance of the Representation delivered in, we have prepared the Heads of a Charge against divers Persons, Members of the House of Commons (to whom many Passages in the said Representation do relate) which we have delivered in to be speeded to the Parliament, and shall (when the Parliament shall have admitted thereof) appoint fit Persons on our, and the Kingdom's Behalf to prosecute and make good the same.

II. That

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II. That if the Parliament shall be pleased to admit these things into Debate and Consideration, at the Desire of the Army, in the Behalf of themselves and the Kingdom, and to proceed thereupon for a general Satisfaction therein, we shall then desire;

1. That the Persons impeached in the said Charge may be forthwith suspended from sitting in the House, without which we cannot reasonably expect such a Proceeding upon any the things we have prepared, as may probably bring the same to an happy or timely Issue to the Kingdom or ourselves, or as may prevent the present Designs and Practices so imminently endangering the Peace of this Nation, if those same Persons (who have notoriously appeared most active in all the late Proceedings, to the Prejudice and Provocation of the Army, and hazarding thus far the Peace of the Kingdom) shall continue in the same Power, Judges of those things relating to the Army's Satisfaction, and Peace of the Kingdom.

2. That there may be a Month's Pay immediately sent down to the Army for a present Supply, out of which the Army shall pay fourteen Days Quarter for time to come, and the other fourteen Days Pay shall be accounted as part of Arrears. And to this we must desire a present Resolution to be with us on *Thursday* next by Noon at farthest.

3. That if the Officers and Soldiers of the Army who have engaged for *Ireland*, or those who have deserted the Army and come to *London*, have since then received more than a Month's Pay, there may be so much more Money sent down to the Army (above the Month's Pay aforementioned) as may make up that Month's Pay to the Army equal to what such Officers and Soldiers have so received at *London* or elsewhere.

4. That no Officers or Soldiers who have so deserted the Army, shall have any more paid them as for Arrears, until the rest of the Army shall first be satisfied in point of Arrears.

5. Whereas there have been several Designs and Endeavours without Authority from the Parliament, to raise and lift new Officers within this Kingdom, to draw together the Forces engaged for *Ireland*, and march them towards *London*; And other secret Practices, to engage the Kingdom in a second War, we farther desire, that during the Debate and Transaction of this Business betwixt the Par-

liament and the Army, the Parliament would not suffer any new Forces to be raised within this Kingdom, or any Forces to be invited or admitted out of any other Kingdom to this; or any thing else to be done, that may carry the Face of a new War or Preparations thereunto, which may endanger or interrupt the present Proceedings to the Settlement of the Liberties and Peace of this Kingdom.

6. That the Parliament would be pleased without delay to put the things contained in our several Representations and Papers already given in, into a speedy way of Resolution and Dispatch, the present Posture and Condition of the Kingdom and Army, as also of his Majesty himself, not admitting Delays.

Signed,

By the Appoyntment of his Excellency, Sir Thomas Fairfax, and Soldiers of the Army under his Command:

St. Alban's,

June 17, 1647.

After the Reading of the Charge, &c. the Impeached Members severally made some Defence thereunto, and desired it might be put into a speedy way of Tryal. The farther Consideration thereof was put off 'till another Day.

June 25, The House resumed this Debate; and after much time spent, resolved, 'That by the Law of the Land, no Judgment can be given to suspend these Members, or any of them, from sitting in the House upon the Papers presented from the Army, before the Particulars be produced, and Proofs made.' Resolved farther upon the Question, 'That it doth not appear, that any thing hath been said or done within the Commons House, by any of the Members in Question, touching any matters contained in the Papers sent from the Army, for which the House can in Justice suspend them.'

The next Day the House had much Debate upon a Motion from the eleven Members charged by the Army, that they might have Liberty to absent themselves from the House; And it was at last condescended unto, and the Members accordingly all of them left the House this Day.

The House received Letters from the Army thereupon, intimating, That they do

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do not insist upon the Suspension of the Members, though by Precedent they might, being tender of the Privileges of the House.

And whereas the Commons have voted, 'That by the Laws of the Land, no Judgment can be given to suspend the Members on Papers presented by the Army, before Particulars produced and Proofs made; Though we think good Reasons may be given and Precedents found to the contrary, even in the Proceedings of this Parliament; as in the Case of the Earl of *Strafford*, the Archbishop of *Canterbury*, the Lord Keeper *Finch*, and others; Yet we do declare, that we have both Particulars and Proofs against them, ready to produce; but considering that the Proceedings thereupon will probably take up much time; and the present unsettled Affairs of the Kingdom, in relation to those great matters proposed by us, do require a speedy Consideration, we shall be willing that these greater and more general matters of the Kingdom be first considered of and settled, before the Censure of those Members be determined. — And whereas we understand, that the Members charged have desired Leave from the Houses to withdraw themselves, we cannot but take notice of the Modesty thereof, so far as to declare, that we are contented therewith. — And we hope and confidently expect, that the Wisdom and Justice of the House will use sufficient Care and Caution for the bringing those Members to their Tryal, when the House shall judge it seasonable and safe.'

Soon after a Petition was presented to the House of Commons in the Name of all the eleven Members impeached, except Mr Recorder *Glynn*, desiring to come to a speedy Tryal:

Whereupon the House ordered, That by *Friday* next at farthest, the particular Charge of the Army against the eleven Members shall be brought into the House.

July 6. The particular Charge against the eleven Members was brought to the House of Commons by Colonel *Scroop*, Colonel *Okey*, Colonel *Hewson*, Colonel *Pride*, Lieutenant Colonel *Bowen*, Lieutenant Colonel *Gosse*, Major *Rainsborough*, Captain *Berry*, Captain *Clerke*, Captain *Carter*, Captain *Ralph*, Captain *Saxby*, and Mr *Gettings*, who attended at the Commons Door; and the House having

Notice thereof, they were called in, and Colonel *Scroop* declared, 'That by the Appointment of the General and the Army under his Command, and in their Names they were to present a particular Charge or Impeachment against the eleven Members: Which being done, they were desired to withdraw, and the Members impeached were sent for in, and the Charge read in the House: But the Day being far spent, the Debate thereupon was put off till *Thursday* next; at which time the Officers of the Army were to attend, and receive an Answer from the House.'

July 12. The House of Commons proceeded in the Debate of the particular Charge against the eleven Members; and upon the Result of all, they voted it a Charge; and that the said eleven Members should give in their Answer thereunto by *Monday* next, at which time the House will consider of putting the same into some speedy way of Tryal, as is desired. The House ordered Mr *Chute*, Mr *Prynn*, Mr *Glover*, Mr *Hales*, shall be Council for the accused eleven Members.

July 20. Mr *Green*, a Member, acquainted the House, that he had a Message to the House of the Desires of the eleven impeached Members, which the House voted to receive and to be read, which was of the following Tenor.

Whereas his Excellency Sir *Thomas Fairfax* and the Army do declare, That the Proceedings upon particular Proofs to make good the Charge, will probably take up much time; and the present Affairs of the Kingdom in Relation to those great matters proposed by them, do (as they say) require a speedy Consideration; and that they propound that those greater and general matters of the Kingdom be first considered of and settled: And in regard it is supposed, that the Absence of these Members will make way for the present more quiet Proceedings to settle the perplexed Affairs of the Kingdom:

That they are so far from making any Interruption or Disturbance to the Proceeding upon, or Settlement of the general Affairs of the Kingdom, that they desire:

I. That they may have Leave to absent themselves from the House for the Space of six Months, to go about their particular Business.

II. That

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‘ II. That they may have Liberty, or
‘ so many of them as shall desire it, to go
‘ beyond the Seas, and have Assets granted
‘ during that Space of time.

‘ III. That by that time the said six
‘ Months shall be expired, they conceive,
‘ that the great and weighty Affairs, tend-
‘ ing to the Peace and Settlement of the
‘ Kingdom will be over, and the House
‘ judge it seasonable to call them to a Tryal.

The House debated their Desires, and
upon the whole passed these Votes ;

I. That Leave be given to *Denzil Hol-
lis Esq;* *Sir Philip Stapleton*, &c. for the
Space of six Months, to be absent from
the House, and to go into the Country,
to follow their necessary Occasions of Bu-
siness as they shall think fit.

II. That *Denzil Hollis*, *Sir Philip
Stapleton*, &c. or any of them, have
Leave to go beyond the Seas, provided
that they return to the Parliament within
the Space of six Months after this present,
to attend the House upon the Business
concerning the Charge brought into the
House (from *Sir Thomas Fairfax* and the
Army) against them.

III. That Mr Speaker grant Warrants to
Denzil Hollis Esq; to *Sir Philip Staple-
ton*, &c. or any of them, that shall desire
to go beyond the Seas, and to return
within six Months after this present
Time.

Six of the eleven Members afterwards
endeavouring to transport themselves be-
yond Sea, were stopped, but afterwards
suffered to pursue their Voyage ; of which
the House received the following Ac-
count, viz.

Major *Redman* being upon the Guard
at *Gravesend*, had Notice, that some of
the eleven impeached Members were
passed by, and gone to *Margaret's* in
Kent ; hereupon he sent Post after them,
and as a Messenger came to *Margaret's*,
they hoisted Sail and were a Mile at Sea.
Enquiry being made of the Fishermen
what their Carriage was, they replied :
*The Gentlemen that went aboard were in
very great Haste: One Fisherman say-
ing to them ; I do not think but these are
some Parliament Men flying. Where-
upon one Captain Bennet, who was in their
Company, drew his Sword at him, but
the Fisherman being nimble of his Heels,
escaped. The Town understanding by
the Messenger what they were, very rea-
dily at the Beat of Drum, repaired to
their Colours, and forty of them under
the Command of Captain Lamming, a*

valiant Seaman, put to Sea in a small
Vessel, and within six Miles of *Callais*
overtook them, who seeing themselves
pursued, made hard to Windward to
escape, but could not : Captain *Lamming*
plying them hard with small Shot, and a
Frigate Man of War, one Captain *Pier-
sen* coming in to his Assistance, the six
Members pull'd down Sail and yielded,
viz. Mr *Denzil Hollis*, *Sir Philip Staple-
ton*, *Sir William Waller*, *Sir William Lewis*,
Sir John Clotworthy, and Mr *Walter Long*,
and demanded by what Warrant they
were apprehended ; Answer was made, pre-
tending it to be by *Sir Thomas Fairfax*
his Warrant. They earnestly pressed a
free Passage beyond Seas, and great Invi-
tations had the Seamen to let them escape,
but it could not be, so they desired to be
brought aboard Captain *Batten* at *Deal*,
which accordingly they were, but they
were dismissed, and sent to Sea by Captain
Batten, and the Seamen who apprehen-
ded them soundly threatened.

September 4. Summons from the Com-
mons were made out for *Hollis*, *Waller*,
Clotworthy, *Massey*, *Long*, *Nichols*, to at-
tend October 16th, to answer to what
should be objected to them.

Glynn the Recorder of London to at-
tend on Monday next ; *Maynard* on Tues-
day. *Glynn* attended Monday and was
put off.

Tuesday the House proceeded upon the
Informations and Proofs against him,
which were read, and in Sum were re-
ported ; That he had been very active in
the Actions in London for a new War,
countenanced the City's last Declaration,
encouraged the riotous Petitioners, had been
very active with the Committee of Safety,
and new Committee of the Militia of London.

Being called into the House, he had
the Particulars of his Charge laid open to
him, to which he made a large Defence.
Upon a Debate it was carried, That Mr
Glynn should be discharged from being
any longer a Member of the Commons
House ; That he should be committed to
the Tower during the Pleasure of the
Houses ; To be brought to Morrow to
receive Sentence.

Upon hearing the Charge against *Sir
John Maynard*, with the Proof upon
Oath, That he had, with great Zeal and
Activity, endeavoured the raising of a
new War, and in Prosecution thereof,
had subscribed Warrants for the raising of
Horse within the City. He had Liberty
to speak what he could in his Defence,

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and

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and afterwards withdrawing, it was voted, That he should be discharged from being longer Member of that House, that he should be committed Prisoner to the Tower, and that an Impeachment of High Treason should be drawn up against him.

September 8. Maynard was carried Prisoner to the Tower; Glynn received his Sentence in the Commons-House; but it was ordered, That his Commitment to the Tower should be dispensed withal for a Week, that he may have Time to sort and deliver up his Papers and Writings in Relation to his Place of Recorder of London, or to his Clients at Law, and to remain in Custody.

October 29. An Impeachment against Sir John Maynard was read and assented to.

Jan. 27. The House considered of the Charge preferred by the Army against the eleven Members, in particular that against Sir John Maynard; and ordered to prosecute that Charge, and that the same be sent to the Lords.

The House then voted, That Mr Hollis should be disabled ever to sit as Member of that House during this present Parliament.

The like Order was made against Sir William Lewis, Mr Nichols, Sir John Clotworthy, Sir William Waller, Colonel Massey, and Colonel Long.

Jan. 28. The Charge against the Lord Willoughby and Sir John Maynard were sent up to the Lords.

Jan. 29. The Commons resolved upon and voted, That the rest of the eleven Members of the House should be impeached of High Treason, in the same Manner as Sir John Maynard was on Thursday last; except Sir William Lewis, who for some Reasons extraordinary, was to be impeached only of High Crimes and Misdemeanours.

Feb. 5. The House of Peers proceeded to Judgment upon the Impeachment against Sir John Maynard, who appealed to their Lordships, by a Paper spread abroad, not to be tried *per Pares*, saying, *Their Lordships were no competent Judges of him*; he pleaded likewise for this Purpose, *Magna Charta*. Their Lordships sent for two Judges who were absent, and the Judgment of the Assistants of that honourable House was given in Point of Law; And upon Debate of the Whole, their Lordships ordered, That the said Sir John Maynard shall be remanded Prisoner to the Tower of London; That he be fined the Sum of 500 l. and that he

shall have sixteen Day's time to give in his Answer; And his Trial to proceed before the Lords, upon the Impeachment of the House of Commons, according to former Order.

Feb. 15. The House of Peers received from Sir John Maynard another Protestation, in which he gives them to understand, he ought to be tried by a Jury, for which he quotes *Magna Charta* and the Lord Coke, and that he may except against thirty five of the Jury, without shewing Cause; That none are to be his Judges that have acted in the same Case whereof he is accused; with much more to the same Purpose. The Lords ordered, That he bring in his Answer on Saturday next.

May 23. The Commons ordered, That Mr Glynn, Recorder of the City, should be discharged from any Proceedings upon the Vote for his Impeachment.

June 3. The Commons ordered, That the Votes whereby Denzil Hollis, Sir John Maynard, Kt. Sir William Waller, Kt. Sir William Lewis, Kt. Colonel Edward Massey, Sir John Clotworthy, Kt. Anthony Nichols, Esq; and Walter Long, Esq; stand accused by this House, be fully discharged.

June 26. The Committee of Privileges made Report to the House, of the Case of Sir John Clotworthy and Mr Mildmay, and after some Debate it was voted, That the Election of Mr Mildmay was void, and that the former Order prohibiting Sir John Clotworthy and Mr Mildmay, to sit in the House till farther Order, be revoked; And that the said Sir John be re-admitted.

Wednesday, December 6.

Several Members going to the House were seized upon and kept in Custody, by special Order from the General and Council of the Army, which the House of Commons, then sitting, being informed of, it was ordered, That the Serjeant at Arms, attending the House of Commons, should be required forthwith to go to the said Members so seized, and under a Guard in the Queen's Court and Court of Wards, and acquaint them that it is the Pleasure of the House, that they forthwith attend the Service of the House. The Serjeant returning, brought Answer, That the Captain of the Guard had Order to secure them, which Order he was to obey before any other Command, and therefore could not in Prosecution thereof dismiss them, till he had other Orders to the contrary.

Members
imprisoned
by the Sol-
diers.

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The House then ordered, That the Committee named Yesterday to go to the General, should make their Report, which they did, his Excellency desiring them to advise with his Council of War about this Answer.

They then ordered, That the Committee, or any three of them, should farther attend his Excellency and the Army for the said Answer.

The House was then also informed, that some Officers of the Army were at the Door with a Message from the Army: They were called in, and Lieut. Col. Axtel acquainted the House, that he was commanded by the General and the General Council of War, to acquaint the House that they had somewhat to present unto them, which will be ready for their present View. Lieut. Col. Axtel withdrawing, the House ordered that he should be called in the second time, and that he should deliver his Message once more to the House, which he did accordingly: The House hereupon returned this Answer, *That the House will be ready to receive it.*

Not long after, Colonel Whaley with other Officers of the Army came to the House, and presented the Proposals and Desires of the Army, as the Ground of this Day's Proceedings, desiring them to take them into speedy Consideration. The House, after the Officers were withdrawn, ordered a Committee should be appointed, to treat with his Excellency and his General Council of War, concerning the Discharge of their Members, and that they should report with all convenient Speed.

The Sum of the Proposals of the Army this Day, briefly taken thus.

Having with others, for a long while sadly beheld and tasted in your Proceedings, the miserable Fruits of Councils divided and corrupted by Faction and personal Interest, even to the Neglect, Betraying, and casting away all that is publick and good, to the lengthning out of endless Troubles, Burden, and Damage, to the continuance and widening of that Issue of Blood, whereby these Nations have been so much polluted and consumed, and to the perpetual Hazard and Bondage, and Destruction to them at last:

And seeing no better or other Way, we propound and demand as followeth:

I. Whereas *Denzil Hollis, Esq; Lionel Copley, Esq; Major General Massey*, and others of your Members, whose Names you well know, were in the Year 1647 impeached by ourselves, for Treason or of High Crimes and Misdemeanors, in relation to the treasonable Engagement in the City of London: The Violence then done upon the Parliament, the levying of a new War and other Evils in maintenance and prosecution thereof; and upon clear Proofs against them, were by your Censure expelled the House, and disabled from farther Trust therein, and upon new Writs issued out, new Members were chosen, and returned in some of their Rooms, and yet, by the Prevalence of their Faction, when in the last Summer's War, divers faithful Members were engaged abroad upon necessary publick Service, and others, thro' malignant Tumults and Disturbances, could not safely attend the House; the same Persons were afterwards re-admitted to sit in the House and vote as formerly, without any Tryal or Satisfaction in the Things whereof they were accused.

II. Whereas, by the Confederacy of Major-General Brown, now Sheriff of London, with the said impeached Members and others, the Scots were invited and drawn in to invade this Kingdom the last Summer, inasmuch as when upon their actual Invasion, the House proceeded to declare them Enemies, and those that adhered to them Traitors; yet the said Confederators and other treacherous Members, to the Number of ninety and odd, as upon the Division of the House appeared, did by their Counsels and Votes, endeavour to hinder the House from declaring against their confederate Invaders: We desire that the said Major General Brown may be also secured and brought to Judgment, and that the rest of the ninety and odd Persons dissenting against the said Vote, may be excluded the House.

III. Whereas in a continued Series of your Proceedings for many Months together, we have seen the Prevalence of the same treacherous, corrupt and divided Councils, thro' Factions and private Interests, opposing or obstructing Justice in all kinds, diverting your Councils from any thing of publick Good, hindring any Proceedings to any such Settlement as would consist with Security to the publick Interest, or put a real End to the Troubles, Borens and Hazards of the Kingdom, and

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and precipitating into treacherous and destructive Compliances and Conjunctions with the acknowledged Enemies thereof, as in the Votes of *No more Addresses to the King*, &c. the Justness and Necessity whereof you had once so cleared to the World; also in the Votes for entertaining or seeking after all that personal Treaty; and lastly, in the Votes declaring the King's past Concessions, to be a Ground for the House to proceed upon, for the Settlement of the Peace of the Kingdom, notwithstanding the visible Insufficiency and Defects of them in things essentially concerning the publick Interests and Liberties of the Kingdoms, as those propounded in our late Remonstrances are, and in other Matters both Religious and Civil. We therefore most earnestly desire, that all such faithful Members who are innocent in these Things, would immediately by Protestation and publick Declaration, acquit themselves from any Guilt of or Concurrence in the several Votes or Counsels here before particularly mentioned, as corrupt or destructive, that the Kingdom may know who they are that have kept their Trust, and distinguish themselves from the rest that have thus falsified the same; and that all such as cannot or shall not so acquit themselves particularly, may be immediately excluded or suspended the House, and not readmitted until they have given clear Satisfaction therein, to the Judgment of those who now so acquit themselves, and the Grounds of such Satisfaction be published to the Kingdom.

IV. Thus, such as by faithfulness have retained their Trust, being set in a Condition to pursue and perform the same without such Interruptions, Diversions, and Depravations of Councils as formerly: We shall desire, and hope you will speedily and vigorously proceed to take order for the Execution of Justice, to set a short Period to your own Power, to provide for a speedy Succession of equal Representatives according to our late Remonstrance, wherein Differences in the Kingdom may be ended, and we and others may comfortably acquiesce; as for our Parts we hereby engage and assure you we shall.

The Names of the Members seized on this Day by the Army are as followeth,

Sir Robert Harley, Colonel Harley, Sir William Waller, Sir Walter Earl, Sir Samuel Luke, Sir Richard Onslow, Sir John Merrick, Sir Martin Lyster, Lord

Wenman, Mr Knightly, Sir Gilbert Gerrard, Sir Benjamin Rudyard, Mr Francis Gerrard, Mr Swinfyn, Mr Crew, Mr Edward Stephens, Mr Buller, Sir Harbottle Grimston, Mr Buckley, Major General Massey, Mr Walker, Sir Robert Pye, Mr Henry Pelham, Colonel Leigh, Sir Anthony Irbys, Sir Thomas Soam, Col. Birch, Mr Lane, Mr Wheeler, Mr Drake, Mr Greene, Mr Bowton, Mr Prymne, Mr Priestly, Sir Simon Dewes, Sir William Lewis, Sir John Clotworthy, Colonel William Strode, Commissary Copley, Mr Vaughan, Colonel Nathaniel Piennes.

Thursday, December 7.

Many Members of the House were this Day forbid to enter the House, because something was to be that Day debated concerning themselves, and therefore they ought not to be Judges in their own Cause. Sir Edward Partridge, Mr Dodrich, and Sir Thomas Dacres, sent their Letters to the Speaker, acquainting the House that they were denied Entrance into the House, who ordered thereupon that the Committee formerly appointed to go to the General, should go this Day, and treat concerning the Restitution of their Members.

The Members seized on by the Army were this Day removed from Mr Duke's House (commonly called Hell) in Westminster, where they were all last Night, to two Inns in the Strand, (viz.) the King's Head, and the Swan, and there have a Guard upon them.

February, December 15.

The House was this Day informed of a scandalous Pamphlet, entitled, *A Solemn Protestation of the Members secluded the House by the Army*. The House hereupon ordered, That it should be referred to a Committee, to enquire who printed or contrived it, and to send for Parties and Witnesses, &c. Both Houses also passed this following Declaration against it.

The Lords and Commons assembled in Parliament, taking into their Consideration a printed Paper, entitled, *A Solemn Protestation of the imprisoned and secluded Members*; wherein amongst other things it is declared, That all Acts, Ordinances, Votes and Proceedings of the House of Commons, made since the sixth of this Instant December, or hereafter to be made during

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Lord Clarendon's marks of the Army Proceedings against Members

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during their Restraint and forcible Seclusion from the House, and the continuance of the Army's Force upon it, are no way obligatory, but void and null to all Intent and Purposes: The said Lords and Commons do hereby judge and declare the said printed Paper to be false, scandalous, and seditious; and tending to destroy the visible and fundamental Government of this Kingdom, do therefore order and ordain the said printed Paper to be suppressed, and that all Persons whatsoever that have had any hand in, or given consent unto the contriving, framing, printing or publishing thereof shall be adjudged, and hereby are adjudged, incapable to bear any Office, or have any Place of Trust or Authority in this Kingdom, or to sit as Member of either House of Parliament; and do farther order and ordain, That every Member of either House respectively now absent, upon his first coming to sit in that House, whereof he is a Member, for the manifestation of his Innocency, shall disavow and disclaim his having had any hand in, or giving consent unto the contriving, framing, printing or publishing of the said Paper or Matter therein contained.

Wednesday, December 29.

Sixteen of the Members of Parliament secured by the Army were this Day set at Liberty by Order from the General; and they were these following, the Lord Wenman, Sir Gilbert Gerrard, Mr Francis Gerrard, Sir Anthony Irby, Sir Thomas Soame, Sir John Merrick, Sir Samuel Luke, Sir Martin Lyster, Mr Boughton, Mr Buller, Mr Vaughan, Sir Walter Earl, Mr Buckley, Mr Crew, Sir Robert Pye, and Mr Knightly. These Members are left at Liberty to sit in the House again if they please, and no Charge against them; the rest of the secluded Members still in Custody.

The Lord Clarendon observes, That the Army had more Reasons than one for the Resentment they shewed against the leading Members of the Commons; they were not only alarmed at the Vote which passed for disbanding them, but at their endeavouring to establish Presbytery by a Law, and exclude their Friends the Independants from any Share in the Administration; nor did they think it reasonable the Parliament should so absolutely dispose of the Soldiery, who had raised them to that height of Power to which

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they were arrived. That they might more advantageously therefore enter into a Competition with the Parliament, and share with them the Government of the Kingdom, the Army erected a kind of Parliament among themselves, making choice of a certain Number of Commission Officers, whom they called the General's Council, and were to resemble the House of Peers; and of three or four inferior Officers of each Regiment, most of them Corporals and Serjeants, few or none of them above the Degree of an Ensign, who were called Agitators, and formed a kind of House of Commons: These two Representatives met severally and considered all Acts and Orders of the two Houses at Westminster, and took upon them to regulate the Army, and settle the State of the Nation; And in the mean time preached, and prayed, and worked up the rest of the Army to a Detestation of Presbytery, and an abhorrence of the Parliament, and having procured the self-denying Ordinance to be suspended, they introduced into the House of Commons several Officers of the Army, in the room of such as were dead or expelled; among whom were Fairfax, Ireton, Harrison, and some of the most violent Independants; but the Presbyterians had still the Majority in the House.

The Army however were not afraid to let the Parliament at Westminster know that they would not be disbanded; they declared also that the Presbyterian Government was more intolerable than either that of the Bishops or Judges; That the Parliament ought not to look upon the Army as a Body of mercenary Janizaries kept in pay to fight their Battels, but Volunteers who fought in Defence of the Liberty of the Nation, of which they were a part: They complained that some Officers of the Army had been committed to Prison by the Parliament, which was a Breach of the Army's Privileges, since all Soldiers ought to be tried by a Council of War, and were not accountable to any other Judicatory, and therefore desired that those who had been committed might be set at Liberty: With which Address they sent three Agitators to the House of Commons, who delivered it with an uncommon Assurance; and when the Speaker would have examined them as to some Particulars, they answered, 'They were employed by the Army' and would not answer any thing without

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Lord Clarendon's Remarks on the Army's Proceedings against the Members.

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'the leave of that Body:' At which the House shewed their Resentment, and gave the Agitators very rough Language. The Army on the other Hand published a Vindication of their Proceedings directed to their General; in which they complained of a Design to disband and new model their Army, which they said was a Plot contrived by some Men who had lately tasted of Sovereign Power, and being elevated above the Condition of Servants, endeavouring to become Masters, were degenerated into Tyrants; and lastly declared, That they would not be disbanded till the Rights and Liberties of the Subjects were vindicated and established. This Vindication being signed by several inferior Officers of the Army, the Parliament caused them to be imprisoned, which occasioned another Address to the General, complaining of the Injuries that were done them; and the General was prevailed also to write to the House, wherein he represented, that it was very strange that the Officers of the Army might not be suffered to petition, when

so many Petitions were received against them (the Presbyterians had procured Petitions from the City, &c. for disbanding the Army) and that he doubted the Army would draw to a Rendezvous, and think of some other way for their Vindication. Thus did *Cromwell* make use of the Agitators, and even of the General himself, to promote his Ambitious Designs. The Army were worked up to a general Mutiny, and instructed to call for their Arrears, and to declare they knew how to pay themselves, and (the Parliament having voted that those who refused to obey their Orders should be disbanded) they would not be appeased till the Parliament razed that Declaration out of their Journals, and sent them a Month's Pay, and appointed a Committee to treat with another Committee from the Army concerning their Grievances, which put the Army upon a level with the Parliament: And in this Situation it was that they ventured to impeach the eleven Members, and proceeded against them in the manner above related.

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Seven Lords. *Proceedings against JAMES Earl of Suffolk, and six other Lords for High Treason. Anno 1647 and 1648. 23, 24 CAR. I.*

1648.
23, 24 C. I.
Impeached
generally of
Treason.

Committed.

SEPTEMBER the 8th, the following Lords, viz. *James Earl of Suffolk, Francis Lord Willoughby of Parham, John Lord Hunsden, William Lord Maynard, Theobald Earl of Lincoln, George Lord Berkley, and James Earl of Middleton*, were impeached by the House of Commons of High Treason generally, upon which Impeachment six of them were committed and restrained of their Liberty for some time; but upon their

Petition they were afterwards set at Liberty; and the House of Peers resolved, That no Peer should for the future be under Restraint upon a general Charge above ten Days.

Particular Articles were afterwards sent up against six of them, and they were obliged to give Security for their Appearance; but they were never tried upon these Impeachments, and on the third of June 1648, they were all discharged.

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23, 24 C. I.

Discharged.

Proceedings

*Proceedings against Sir CHARLES LUCAS, and Sir
GEORGE LISLE, for their Loyalty to their
Sovereign on the 29th Day of August, 1648:*
24 CAR. I.

Lucas and
Lisle.

1648.
24 Car. I.

THE Cafe was this, The Town of *Colebester* having held out to the last extremity, was compelled to surrender on the 28th of *August*, on the following Articles, (*Viz.*)

That the several Regiments in the Town should lay down their Arms at their respective Posts, and there remain with their Officers, under Captains, till farther Orders: That the Lords with the rest of the Officers and Gentlemen, should by eight in the Morning be at the *King's Head*, and their Horses and Arms put into *St Mary's Church-Yard*: That all the Ordinance should be left on the Platforms, and all the Ammunition left in the Magazine at the *Town-Hall*.

These Articles concluded, the Lord *Fairfax* entred the Town, and having rid in Triumph through the Works, called a Council of War, from whence he sent Colonel *Ewers* to the Lords and Gentlemen at the *King's-Head*, who with a slight Air told Sir *Charles Lucas*, that the General would speak with him, Sir *George Lisle*, and Sir *Bernard Goscoigne*, and they forboding their Fate, took their Solemn Leave of the rest of the Lords and Gentlemen. Being come before the Council, without being called to answer for themselves, they were conveyed to the Castle, where immediately *Ireton* came and told them, *they must prepare themselves to die*: Whereupon Sir *Charles* asked him *by what Law*? To which the other replied, 'It was by a Vote of the Council of War, according to an order of Parliament by which all found in Arms were to be proceeded against as Traytors.' Sir *Charles* then desired to be respited till the Morning, but was denied by *Ireton*, upon which he continued, 'Sir, do not think I make this Request out of a desire to live, for I scorn to ask Life at your Hands, but that I might have time to make some Addresses to God above,

and settle some things below; But since it will not be by your Charity, I must submit to the Mercy of God: Do your worst, I shall soon be ready for Execution.' Sir *George Lisle* likewise desired some Respite to write to his Father and Mother, but was denied; so having had some private Prayers with the Chaplain, and received the Sacrament, they were led to the Place of Execution. The Lords and Gentlemen sent to desire the General either to forbear the Execution; or that they might all, who were equally Guilty, undergo the same Sentence with those three, but all to no Effect. The first brought to the Place was Sir *Charles Lucas*, who told them, 'He had often looked Death in the Face, and now they should see he durst die; and so after some private Prayers he unbuttoned his Doublet, shewed them his Breast, and set his Hands to his Sides, calling out, *see I am ready for you; Rebels do your worst?* At which Words they immediately fired, and shooting him in four Places he fell. Whereupon Sir *George Lisle* ran to him, embraced and kissed him, then turning to the Spectators, he said, *How many of your Lives have I saved in hot Blood, and must now myself be barbarously murdered in Cold! but what dare they not do, who would willingly destroy my dear Sovereign! for whose Deliverance and Peace to this Poor Nation I dedicate my last Prayers to Heaven*: Then looking upon the Executioners, and thinking them at too great a distance, he bad them come nearer; at which one of them said, *I warrant you Sir we'll hit you*: He answered, smiling, *Friends, I have been nearer to you, when you have missed me*. And so firing all at once, he fell to the Ground without speaking. Thus they murdered two Men of Great Name and Esteem in the War, the one being as good a Commander of Horse, and the other of Foot, as the Nation

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Nation had. Sir Bernard Gascoigne was ready for Execution, but being an *Italian*, and a Person of some Interest in his own Country, his Life was spared.

As soon as the Bloody Sacrifice was ended, *Fairfax* with his Chief Officers went to visit the noble Prisoners, and the General civilly applied himself to the Earl of *Norwich*, and the Lord *Capel*, and seeming in some degree to excuse this Proceeding, which he said the Military Justice required, he told them, That all the Lives of the rest were safe, and that they should be well treated and disposed of as the Parliament should direct. The Lord *Capel* had not so soon digested this barbarous Act, as to receive these Visitors with that Civility they expected; but said, they should do well to finish their Work, and execute the same Rigour to the rest; Upon which there passed two or three bitter replies, between him and *Ireton*, that cost him his Life a few Months after. When the General had given notice to the Parliament of his Proceedings, he received orders to send the Earl of *Norwich*, and the Lord *Capel* to

Windsor Castle, where they had afterwards the Society of Duke *Hamilton* to lament each others Misfortunes. The rest of the Prisoners as the Lord *Loughborough*, Sir *William Compton*, Sir *Abraham Shipman*, Sir *John Watts*, Sir *Lodowick Dyer*, Sir *Henry Appleton*, Sir *Denart Strutt*, Sir *Hugh Buckley*, Sir *Richard Maleverer*, and many other Officers and Gentlemen, were conveyed to several Prisons, most of them distant from each other, and from the Places of their Habitations. *Fairfax* having performed this Service, and fined the Town thirteen thousand Pounds, marched to *Yarmouth*, and round the Country to settle Peace, till he returned to his Head Quarters at *St Alban's*.

After the Restoration, the Funeral Obsequies of Sir *Charles Lucas*, and Sir *George Lisle*, were magnificently Solemnized at *Colchester* at the Expence of the Crown: The Neighbouring Gentlemen and Townsmen in Arms attending the Procession to the Burying Place of Sir *Charles Lucas's* Family in *Colchester*, where both their Bodies were reinterred.

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23 Car. I.Langhorn,
&c.

Proceedings against Major General LANGHORN, Colonel POYER, and Colonel POWEL, before a Court-Martial of the Officers of the Usurpers Army. Anno 1648. 24 CAR. I.

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THE Charge in general against the Prisoners was, That they had revolted from the Parliament and adhered to the Enemy, of which they were convicted and condemned to die; but the General was so merciful as to permit them to draw Lots which of the three should suffer, whereupon the Prisoners made Choice of a Child to draw cuts for them, and the Lot fell upon Colonel *Poyer*, who was soon after Shot to Death in *Convent-Garden*, and the other two were spared.

Of these Gentlemen, and the Enterprize for which they were condemned to die, the Lord *Clarendon* gives the following Account, viz.

There was in *South Wales* Colonel

Langhorn, Colonel *Powel*, and Colonel *Poyer*, who commanded in those parts under the Parliament which they had served from the beginning; the first of them a Gentleman of a good Extraction, and a fair Fortune in Land in those Counties, who had been bred a Page under the Earl of *Essex*, when he had a Command in the Low Countries, and continued his Dependence upon him afterwards, and was much in his Favour, and by that Relation was first engaged in the Rebellion, as many other Gentlemen had been without wishing ill to the King: The second was a Gentleman too, but a Soldier of Fortune: The third had from a low Trade raised himself in the War, to the Reputation of a very diligent and stout Officer,

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ficer, and was at this time trusted by the Parliament with the Government of the Town and Castle of *Pembroke*. These three communicated their Discontents to each other, and all thought themselves ill requited by the Parliament for the Service they had done, especially when Colonel *Mitton* was preferred before them, and resolved to take the opportunity of the *Scots* coming in to declare for the King upon the Presbyterian Account. But *Langborne* who was not infected with any of those freaks, and doubted not to reduce the other when it should be time for sober Resolutions, would not engage till he first sent a Confident to *Paris* to inform the Prince of what he had determined, and of what their Wants consisted, which if not relieved, they should not be able to pursue their Purpose, desiring to receive Orders for the time of their declaring, and Assurance that they should in time receive those Supplies they stood in need of. And the Lord *Jermin* sent him a Promise under his Hand, that he should not fail of receiving all the things he had desired, before he could be pressed by the Enemy; And therefore conjured him and his Friends forthwith to declare for the King; which he assured them would be of singular Benefit and Advantage to his Majesty's Service; since upon the first notice of their having declared, the *Scots* Army would be ready to march into *England*. Hereupon they presently declared, before they were provided to keep the Field for want of Ammunition and Money, and when *Pembroke* was not supplied with Provisions for above two Months, and were never thought of after.

These Gentlemen though disappointed of the Succours they expected from *Abroad*, assembled their Friends in *South Wales*, and had several smart Engagements with the Rebels Forces in some of which they were successful; but being at length over-powered, they were forced to quit the Field and shut themselves up in the Castle of *Pembroke*, where being besieged by *Cromwel*, and reduced to the last extremity, they were compelled to surrender at Discretion; and being tried by a Court-Martial, were condemned to die as related above.

There are some farther Particulars relating to this Enterprize to be met with in *Rushworth's* Collections, which ought not to be passed by.

Saturday March 4, 1647. The follow-

ing Ordinance of both Houses was made for reducing *Pembroke* Castle, viz.

Whereas Colonel *Poyer* having the Command of *Pembroke* Castle, hath willfully refused to deliver the said Castle of *Pembroke* according to the Direction of the General, Sir *Thomas Fairfax*; and whereas the House of Commons upon Information thereof, did, by a Letter from the Speaker, and an order of the House, require the said Colonel *Poyer* to render the said Castle as the General had directed: Who hath notwithstanding, in great Contempt and Disobedience, refused to surrender the same, and holds the same by Force, and doth both Victual and Strengthen himself therein, to the Prejudice of the publick Peace, and the endangering of a new War;

It is ordained, and be it ordained by the Lords and Commons now assembled in Parliament, That if the said Colonel *Poyer*, shall not within twelve Hours after notice hereof surrender the said Castle, with all the Arms, Ordnance and Ammunition (as the General hath directed) that then Colonel *Poyer*, and all that shall adhere to him, are hereby declared Traytors and Rebels; and the General is hereby required to reduce the said Castle, and bring the said Colonel *Poyer* and his Adherents to Justice.

This Ordinance being sent to the General, his Excellency took order for sending the same to the Commander in Chief of the Forces before *Pembroke* Castle, who is to send it into the Castle; and if after twelve Hours, the Castle be not surrendered unto him, he is to use means for taking of it by Force, and to that purpose more Forces are designed from *Gloucester* to assist him, and Colonel *Rainsborough* is also sent unto at Sea, to send Shipping to block up the Harbour before the Castle.

Tuesday, March 21. The Parliament and General *Fairfax* received Letters from *Wales* of the following Tenour.

Colonel *Poyer* still holds out *Pembroke* Castle, refusing to yield upon the Order of the Parliament or the General, but upon his own Terms, and in some of the Letters are the following Passages concerning the Colonel.

The Man is certainly in two Dispositions every Day, in the Morning Sober and Penitent, but in the Afternoon Drunk and full of Plots. Some Days since he sent four or five of his Bullies (clad

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in the best Apparel he could get for them) out of the Sally-Port before Sun-rising, and received them in again at the Gate in great Ceremony, as if they had been Princes, and then shot off some Guns for their Entertainment, giving out among the People of the Town they were Colonels and Commanders sent out of *France* to him by the Prince of *Wales*, and that more of them would follow very speedily. When he hear-eth News that pleaseth him, he puts forth Bloody Colours, and then he is for the King and Book of Common-Prayer; but if that Wind turn, then he is for the Oath and Covenant, and then puts forth Blue and White. On *Wednesday* last and *Thursday* he fired on us without Cause all the Guns he had. On *Friday* and *Saturday* he was very quiet. Yester-Night he vowed not one of us should go alive out of Town. The next News you hear will be his creeping into us like a *Spaniel*. He takes it very ill the King is in the *Isle of Wight*, and calls the General, King *Thomas Fairfax*, with other ap-probrious Language: We lie close, and have not made one Shot at him; but we keep him up so that not a Man of his dares peep out of the Gate. He got a Gentleman the other Day, and prest him to tell him whether he was an Independant or a *Presbyter*? The Gentleman answered neither, for he was a Protestant. Why so am I, quoth *Poyer*, therefore let us be merry. So in they went and drank so hard that neither was able to stir in twenty four Hours after. A thousand of these Stories might be told of him.

The Answer of Colonel *Poyer*, to the Order of Parliament for his Surrender, directed to Colonel *Fleming*, Commander in Chief of the Forces before *Pembroke Castle*, is as followeth:

SIR,

The Order and Letter I read before your Drum to the Soldiers. They return this Answer, Their Arrears and Indemnity they desire, for my own part, my Disbursements paid and my Arrears, as other Officers, according to my Place and Time of my Service: This granted we are willing to surrender Castle and all; if not we are resolved with the Assistance of the Almighty, to hold the Castle for the King and Parliament according to the Covenant by us taken,

until such times that our Arrears, Disbursements, and Indemnity be assured us. Our Trust is not in the Arm of Flesh, but our Hope standeth in the Name of the Lord; and if Blood be spilt, judge who shall answer it at the dreadful Day of Judgment; Such as seek another Man's Life to enjoy what is his Right, or that Man that stands in his Defence to save what is his. We have bestowed our time to good purpose, at last to be proclaimed Traitors and Rebels for demanding our own; and no more but what yourself and those Mercenaries desire that you have brought to murder us, and to take Bread forth of the Mouths of our Wives and Children. I have no more but this, as *David* spake to *Saul* when he hunted after his Life, the Lord be Judge between us; whose Heavenly Protection I am assured of, knowing our Cause to be just. I have not else to trouble you with, but rest,

March 13th

1647.

Your humble Servant,

J. Poyer.

From Bristol by Letters March 25th, came further to this Purpose.

We have now Advice of that Spark at *Pembroke* to be grown into a Flame; which if not timously prevented may set the whole Kingdom on a Fire: *Poyer* having routed some of Colonel *Fleming's* Men, killed some and taken others Prisoners, and dispersed the rest. With him are combined *Langborne's* Men, and a Party in the adjacent Counties. A Frigate came lately to the Castle, and is again dispatched from thence, 'tis conceived from *France*; and as is reported, one of the Parliaments Ships being on Ground, one Night was surprized by them in the Castle. Help forward speedy Supplies in this Exigent, otherwise we may see what we cannot remedy if we would, that whole Country being full of inveterate Malignants.

Tuesday, April 4. Letters from *Pembroke-shire*, give Intelligence of the uncontrollable Deportment of Colonel *Poyer*, and a part of Major-General *Langborne's* Men how fast they take Prisoners, and that they had secured some of the Committee Men.

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'The Miseries of the destroyed County of *Pembroke* do very much increase. This Evening a Vessel arrived here that came Yesterday Morning out of *Milford*, and brings News, That *Poyer* is near five hundred strong in Foot, and that Captain *Addis's* Troop, and one other of Major General *Langborne's* Horse are fallen in to him, both to the Number of one hundred: He is daily raising more Forces, both of Horse and Foot; and to that end do frequently Muster the Country into *Pembroke* Town, who do out of pure fear obey him, and do make very full Appearances before him, with Bills, Halberts, and such other Weapons as they can get; and out of them on *Saturday* last he pressed 100 Men, besides what he hath pressed since in the Country. He hath lessed all the Country Parishes about him to a Tax near treble as much on a Parish, as the three Months Sessment for the Army is, which he forceth the Inhabitants to bring in to him in Money or Provision, or both, and such as do refuse he threatneth to plunder. He hath imprisoned Mr *William Lort*, Mr *Matthew Bowen*, and *William Poyer*, with several others, and made them all pay their Ransoms. Some of Colonel *Powel's* Men are fallen into him, and also some Foot of Colonel *John Butler's*, once Lieutenant Colonel to the Earl of *Essex*.

Saturday, July 15th, 1648. Letters came this Day from Lieutenant General *Cromwel*, to his Excellency the Lord *Fairfax*, and the Committee at *Derby-House*, of the Surrender of *Pembroke* Town and Castle, *Tuesday* last 11th of *July, 1648*, upon these Articles; That Major-General *Langborne*, Colonel *Poyer*, Colonel *Humphrey Matthews*, Captain *William Bowen* and *David Poyer*, do surrender themselves to the Mercy of the Parliament. That Sir *Charles Kemish*, Sir *Henry Strading*, Mr *Miles Button*, Major *Pitcher*, Lieutenant Colonel *Stradling*, Lieutenant Colonel *Langborne*, Lieutenant Colonel *Brabson*, Mr *Gamage*, Major *Butler*, Mr *Francis Lewis*, Major *Matthews*, Major *Har-nish*, Captain *Rock*, Captain *Jones*, Captain *Hugh Bowen*, Captain *Thomas Watts* and Lieutenant *Young*, do within six Weeks depart the Kingdom and not to return within two Years: All Officers, Gentlemen, and private Soldiers not before named, shall have free Liberty to go to their several Habita-

tions, and not be plundered. And all sick and wounded Men to be carefully provided for till they be well. That the Townsmen shall be free from Plunder and Violence, and enjoy their Liberty as heretofore. That the Town and Castle of *Pembroke*, with all the Arms Ammunition and Ordnance, together with the Victuals and Provisions for the Garrison, be delivered unto Lieutenant General *Cromwel*, for the use of the Parliament, which was done accordingly.

Friday, July 21. The House considered of such as have formerly served the Parliament, and in this War, and have revolted to the common Enemy of late; and upon this Debate voted and declared, That all Persons whatsoever, that have ever served for the Parliament of *England*, and have, or shall hereafter, revolt to the Enemies thereof that are in open Hostility against them, and have been or shall be taken Prisoners, be sent to the Lord General *Fairfax*, and tried for their Lives by a Council of War.

The Prince of Wales's Letter to General Fairfax, in Behalf of Major General Langborne, Colonel Powel, and Colonel Poyer, with the General's Answer.

'Being informed that some rigorous Course is intended against Major General *Langborne*, Colonel *Powel*, and Colonel *Poyer*, and others, now Prisoners of War, for things done under the Authority of my Commission; I think fit to let you know, that I cannot but be extremely sensible of such a Proceeding, as well in Regard of the Merit of the Persons, as of my own Honour, which I take to be highly concerned in their Preservation; As also, because thereby a Necessity will be put upon me of Proceeding with such as shall fall into my Hands, in a way very contrary to my Nature, and as far from my Intention, unless I be necessitated thereunto by your Rigour to these Gentlemen: I desire therefore that by your Care and seasonable Interposition, such Moderation may be used towards them, as becomes Soldiers to one another, and as I conceive to be due to them; Which will be an Engagement to me to pursue my Inclinations towards those that shall be in my Power: And so I remain,

Your loving Friend,
CHARLES P.
His

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24 Car. I.

Proceedings against STATE CRIMINALS.

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24 Car. I.

His Excellency's Answer.

'I have acquainted the Houses with your Highness's Letter concerning Major General Langborne, and the rest, it being not in my Power to act farther, the Parliament having ordered in what way they shall be proceeded against; not so much that they were in Hostility against them, I suppose, as that they have betrayed the Trust they reposed in them, to the sad engaging this Na-

tion again in War and Blood: So it is not in my Power to oppose Justice. But that all Obstacles of a just and firm Peace may be removed, shall be the earnest Prayer of,

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Your Highness's most

August 21, 1648.

humble Servant,

FAIRFAX.

Proceedings against Major WILLIAM PITCHER, for remaining in England beyond the Time allowed him by his Articles of Surrender; before a Court-Martial held at London, in December, 1648. 24 CAR. I.

Pitcher.

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24 Car. I.

The Charge against him.

THE Charge exhibited against the Major was, 'That he having a long time served in the King's Party against the Parliament, and in that Service having been a most violent and bitter Enemy, guilty of many exorbitant Outrages: And upon the Articles for the Surrender of Worcester, having engaged not to bear Arms any more against the Parliament; and yet being the last Summer found again in Arms against the Parliament at Pembroke; and there for that and other Causes upon Treaty for Surrender thereof, insisted upon to be at Mercy for Quarter; but upon Importunity of the Enemy's Commissioners on his Behalf, being allowed Liberty to go beyond Sea within six Weeks, and not return into this Kingdom for the Space of two Years, without Leave from the Parliament, otherwise to forfeit the Benefit of the Articles (which implied as was then declared, *That in case of such Forfeiture, he should have no Quarter, but die*

without Mercy,) nevertheless the said Major Pitcher hath continued ever since in England, and was found lurking in London since the Proclamation requiring all of the King's Party, who had not compounded, to depart the Town; and that there was Evidence of his lying here, with a Design to lift Men for the King, in Order to a new Disturbance.'

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All which Facts being attested by Witnesses to the Satisfaction of the Court-Martial, on the 29th of December, 1648, it was thereupon adjudged, That he had broke his Faith as a Soldier, contrary to his said Engagement at Worcester, and had forfeited the Benefit of his Articles of Pembroke; for which, and other Reasons mentioned in the said Charge, it was resolved, That he should have no farther Quarter, but suffer according to the general Custom and Laws of War. And he was afterwards shot to Death by the Authority of the said Court-Martial.

Proceedings

Proceedings against GEORGE GORING Earl of Norwich, ARTHUR Lord Capel, Baron of Hadham, and Sir JOHN OWEN, for High Treason against the Usurpers. Anno 1648. I CAR. II.

1648.
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Their Cafe.

AFTER the taking of Colchester, and the Execution of Sir Charles Lucas, and Sir George Lisle, the Earl of Norwich, the Lord Capel, and other Prisoners of Distinction were sent to Windsor Castle, where they arrived on the 8th of September 1648, and in the same Month the Earl of Norwich was impeached of High Treason; and a Bill of Attainder was brought in against the Lord Capel in the Rump Parliament.

Whereupon the accused Lords wrote a Letter to the Parliament, acquainting them, That they had received Notice, that the House was proceeding against them for High Treason, for what had been transacted in the late War, tho' they could not be ignorant, that Quarter was given them at the Surrender of Colchester: And that his Excellency the General had written to the House, informing them, that after some were shot, he had given the rest of the Prisoners an Assurance of Quarter.

This Letter occasioned some Debate in the House, and the Letter from the General to the Earl of Manchester on this Subject was ordered to be read, being of the following Tenor,

My Lord,

' I have herewith sent you the Articles, with the Explanations annexed; upon which it hath pleased God, in his best time, to deliver the Town of Colchester, and the Enemy therein into our Hands, without farther Bloodshed, saving that for some Satisfaction to Military Justice, and in part of Avenge for the innocent Blood they caused to be spilt, and the Trouble, Damage and Mischief they have brought upon the Town, this Country, and the Kingdom, I have, with the Advice of a Council of War of the chief Officers, both of the Country Forces and the Army, caused two

' of them who were rendered at Mercy, to be shot to Death, before any of them had Quarter assured them. The Prisoners pitched upon for this Example, were Sir Charles Lucas and Sir George Lisle; in whose Military Execution I hope your Lordships will not find cause to think your Honour or Justice prejudiced. As for the Lord Goring, Lord Capel, and the rest of the Persons rendered to Mercy, and now assured of Quarter, of whose Names I have sent your Lordships a particular List, I do hereby render unto the Parliament's Judgment for farther publick Justice and Mercy to be used as you shall see Cause. I desire God may have the Glory of his multiplied Mercies towards you and the Kingdom in this kind: And in the Condition of Instruments as to the Service here, the Officers and Soldiers of Essex and Suffolk, who in this time of so dangerous Defection have adhered constant to yours and the Kingdom's Interest, for their faithful Demeanour, and patient Endurance in the Hardship of this Service, are not to be forgotten.

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Your Lordships

most humble Servant,

THOMAS FAIRFAX.

Hith,
Aug. 29, 1648.

With this Letter were also read the Queries the Garrison of Colchester proposed to the General, before the Surrender of that Town, viz.

I. What is meant by Fair Quarter?

II. What is Rendering to Mercy?

To the first; ' By Fair Quarter we understand, That with Quarter for their
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' Lives,

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'Lives, they shall be free from Wounding or Beating; shall enjoy warm Cloths to cover them and keep them warm; shall be maintained with Victuals fit for Prisoners, while they shall be kept Prisoners.'

To the second; 'By Rendering to Mercy we understand, That they be rendered, or render themselves to the Lord General, or whom he shall appoint, without certain Assurances of Quarter; so as the Lord General may be free to put some immediately to the Sword, if he see Cause; although his Excellency intends chiefly, and for the Generality of those under that Condition, to surrender them to the Mercy of the Parliament in general. There hath been large Experience, neither hath his Excellency given Cause to doubt of his Civility to such as he shall retain Prisoners, although by their being rendered to Mercy, he stands not engaged thereby.'

Then the House ordered, That the Lord General should be desired to explain that Part of his Letter of the 29th of August, concerning the Quarter given to the Lord Goring and the Lord Capel; and his farther leaving them to the Justice and Mercy of the Parliament.

To this the General answered, 'That though he could not easily understand what it was which in his former Letter to the House of Commons, concerning the Lords Goring and Capel, should so much need a serious Explanation as to the Point in Question; yet supposing the Scruple to be; Whether in assuring of Quarter to the said Lords and the rest, did extend, or doth imply to secure them from farther Question as to Life, before their own, or other Civil Judgment, for the War levied by them? Answered thus: That the Quarter to them was not upon Capitulation or Agreement; and therefore could ground no more Claim than common Quarter to any Enemy taken in a Field-Engagement, or other Action. Now for the Sense and Extent of common Quarter given, I have always understood it to be an Assuring of Life against the immediate Execution of the Military Sword, or any farther Execution thereby, without Judicial Tryal. But whether it imply to protect, or exempt them from any Judicial Tryal or Proceeding to Life, either by the Civil Sword of that Authority,

against which, being subject, they rebel, or by the Martial Power, as to Persons and Causes subject to it's Cognizance; having never so understood it; nor known to be so, his Excellency left it to their Determination: And that some Power of giving Quarter every Soldier also hath in his proper Action, which is daily used by them, if they see Cause, to all Sorts of the Enemy, and is, unless where particular Command is before hand to the contrary, always allowed, whatever the Persons prove; because not understood to extend to farther Exemption, than as aforesaid; and whether now it should be taken otherwise: And that the Soldiers granting Quarter, shall be a full Pardon as to Life, is not his Excellency's Sense, but the general Sense and Practice in all Wars, and of both Parties in this War, give the Determination: But if it were not so, then not only no Rebel by that Civil Judicature to which he stood a Subject, but also no Revolver, nor Deserter of his Colours or Trust, running to the Enemy, nor any Spy or the like, by the Martial Power, after once taken to Quarter, should ever be brought to a Judicial Trial or Execution for their Revolt and Treachery: And therefore he did not urge those things out of any particular Animosity to the Lord Goring; for were he even an innocent Person, or one for whom he would beg their Pardon, yet he should not by any Opinion or Silence be guilty of staying their Judicial Proceeding upon such Ground; the Admission whereof would at once condemn so much the just and necessary Practices of the Parliament and other States, and also exclude or prejudice his future Proceedings in publick Justice against any Person for Rebellion, Revolt, or Treachery in War, who after utmost Extremity against them, could find but any Soldier of theirs to give him Quarter.'

I don't find that the Rump Parliament proceeded any farther against these Lords, either upon the Impeachment or Attainder abovementioned, but after they had murdered their Sovereign, they erected another High Court of Justice for the Tryal of Duke Hamilton, the Earl of Holland, the aforesaid Earl of Norwich, Lord Capel and Sir John Owen.

The Earl of Norwich being brought to his Tryal, behaved himself, according to

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to the noble Historian, with great Submission to the Court, and with all those Addresses as were most like to reconcile his Judges to him; and to prevail over their Affections, spoke of his being bred up in the Court from his Cradle in the time of Queen Elizabeth; of his having been a Servant to King James all his Reign; of his Dependence on Prince Harry; afterwards upon the late King; of the Obligations he had to the Crown, and of his Endeavours to serve it; and concluded as a Man that would be beholding to them, if they would give him Leave to live.

The Lord Capel at his Tryal appeared undaunted, and utterly refused to submit to their Jurisdiction: 'That in the Condition and Capacity of a Soldier and a Prisoner of War, *be said*, the Lawyers and Gown-Men had nothing to do with him; and therefore he would not answer to any thing which they had said against him, (*Steel* having treated him with great Rudeness and Insolence) but insisted upon the Law of Nations, which exempted all Prisoners, though submitting to Mercy, from Death, if it was not inflicted within so many Days, which were long since expired. He urged the Declaration, which *Fairfax* the General had made to him, and the rest of the Prisoners, after the Death of Sir Charles Lucas and Sir George Lisle, that no other of their Lives should be in Danger; which he had Witnesses to prove, if they might be admitted; And concluded, "That if he had committed any Offence worthy of Death, he might be tryed by his Peers, which was his Right by the Laws of the Land, the Benefit whereof he required." *Ireton*, who was present, and sat as one of his Judges, denied, 'That the General had made any such Promise, and if he had, that the Parliament's Authority could not be restrained thereby; And put him in mind of his Carriage at that time, and how much he neglected then the General's Civility: The other insisted still on the Promise, and urged, 'That the General might be sent for, and examined; which they knew not how to deny, but in regard of his Indisposition of Health, they said, 'They would send to him, whilst they proceeded against Sir John Owen, who was the other Prisoner.'

He answered them without any Application, 'That he was a plain Gentleman

of Wales, who had been always taught to obey the King; that he had served him honestly during the War; and finding afterwards that many honest Men endeavoured to raise Forces, whereby they might get him out of Prison, he did the like; and the High Sheriff endeavoured to oppose him, and so chanc'd to be killed, which he might have avoided if he had stayed at home: And concluded like a Man that did not much care what they resolved concerning him.

Whether the Question was well stated to *Fairfax*, or what was else said to him to dissuade him from owning his Declaration and Promise, he boggled so much in his Answer, that they would be of Opinion, 'That he had not made such direct and positive Promise, and that the same was never transmitted to the Parliament, which it ought to have been; and that at most, it could but exempt those Prisoners from being tryed before a Court Martial, or Council of War, and could not be understood as an Obligation upon the Parliament, not to give Direction to such a legal Proceeding against them, as they should find necessary for the Peace and Safety of the Kingdom.'

The President *Bradshaw* told the Lord Capel, with many insolent Expressions, 'That he was tryed before such Judges as the Parliament thought fit to assign him, and who had been judged a better Man than himself.' So the Sentence of Death passed against all five of them, *That they should lose their Heads*. Upon which Sir John Owen made a low Reverence, and gave them humble Thanks; and being asked by a Stander-by what he meant; he said aloud: 'It was a very great Honour to a poor Gentleman of Wales to lose his Head with such noble Lords; and swore a great Oath, 'That he was afraid they should have hanged him.'

The Prisoners were all carried to St James's, where they were to remain till their Execution two Days after, which time their Friends and Relations had to endeavour to preserve their Lives by the Power and Authority of the Parliament, where there were so many sitting, who had not sat in Judgment upon them, and who were of several Affections, and liable to several Temptations, that there might be a reasonable Hope to rescue them from the cruel and unjust Judgment. Their Wives and Children and Friends, left no way untryed to prevail; they offered

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offered and gave Money to some who were willing to receive it, and made Promises accordingly: But they who had the greatest Credit and most Power to terrify others who should displease them, were inexorable; yet dealt so much more honestly than the rest, that they declared to the Ladies, who solicited for their Husbands and their Fathers, 'That they would not endeavour to do them Service.'

Iretton above all Men continued his insolent and dogged Humour, and told them, 'If he had Credit, they should all die.' Others who gave them better Words, had no better meaning than he.

All their Petitions were read in order, being penned in such Stiles, as the Friends who solicited for them were advised. Duke *Hamilton's* Petition being read, many upon the Motives of Justice, and as they imagined his Death might be the Occasion of new Troubles between the two Nations, since *Scotland* could not but resent it, would have been willing he should live. But he had fewer Friends to his Person than any of the rest; and *Cromwel* knew well, that his being out of the way, would not be unacceptable to them upon whom the Peace of the Kingdom depended; so that when his Petition was read, it was rejected by very much the major Part of Voices. The Consideration of the Earl of *Holland* took up a long Debate: The Interest and Interposition of the Earl of *Warwick* his Brother, was applyed; and every Presbyterian to a Man, was solicitous to preserve him: They urged, 'His Merit towards the

'Parliament in the Beginning of the Troubles; how much he had suffered in the Court for his Affection to them; his Age and Infirmities, which would not suffer him long to enjoy that Life they should give him; and the Consideration of his Wife and Children which were numerous.' But these Arguments stirred up others to inveigh against his Backslidings with the more Bitterness, and to undervalue the Services he had ever done; to tax his Vanities and his Breach of Faith. When the Question was put concerning him, they who were for the Negative, exceeded the Number of the other by three or four Votes; *Cromwel* having more than an ordinary Animosity against him for his Behaviour in the Beginning of the Summer, and for some Words of Neglect and Contempt he had let fall concerning himself. The Earl of *Norwich* came next upon the Stage; who

having always lived a cheerful and jovial Life, without contracting many Enemies, had many there who wished him well, and few who had Animosity against him; so when the Question was put concerning him, the House was equally divided; the Votes which rejected his Petition, and those which would preserve his Life, were equal; so that his Life or Death depended upon the single Vote of the Speaker, who told the House, 'That he had received many Obligations from that Lord; and that once, when he had been like to have incurred the King's Displeasure by some Misinformation, which would have been very penal to him, the Lord *Goring* (under which Stile he was treated, the Additional of *Norwich* not being allowed by them upon their old Rule) had by his Credit, preserved him, and removed the Prejudice that was against him; and therefore he was obliged in Gratitude to give his Vote for the saving him.' By this good Fortune he came to be preserved: Whether the Ground of it were true or no, or whether the Speaker made it only as an Excuse for saving any Man's Life who was put to ask it in that Place.

The Lord *Capel* shortly after he was brought Prisoner to the Tower from *Windsor-Castle*, had by a wonderful Adventure, having a Cord and all things necessary conveyed to him, let himself down out of the Window of his Chamber in the Night, over the Wall of the Tower, and had been directed through what part of the Ditch he might be best able to wade. Whether he found the right place, or whether there was no safer place, he found the Water and the Mud so deep that if he had not been by the Head taller than other Men he must have perished, since the Water came up to his Chin. The way was so long to the other side, and the fatigue of drawing himself out of so much Mud so intolerable, that his Spirits were near spent, and he was once ready to call out for help, as thinking it better to be carried back again to the Prison, than to be found in such a Place from whence he could not extricate himself, and where he was ready to expire. But it pleased God, that he got at last to the other side; where his Friends expected him, and carried him to a Chamber in the Temple; where he remained two or three Nights secure from any discovery, notwithstanding the diligence that could not but be used

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used to recover a Man they designed to use no better. After two or three Days a Friend whom he trusted much, and who deserved to be trusted, conceiving that he might be more secure in a place to which there was less resort, and where there were so many harboured, who were every Day sought after, had provided a Lodging for him in a private House in *Lambeth Marsh*; and calling upon him in an Evening when it was dark, to go thither, they chose rather to take any Boat they found ready at the *Temple-Stairs*, than to trust one of that People with the Secret; and it was so late that there was only one Boat left there. In that the Lord *Capel* (as well disguised as he thought necessary) and his Friend put themselves, and bid the Waterman to row them to *Lambeth*. Whether in their Passage thither the other Gentleman called him my Lord, as was confidently reported, or whether the Waterman had any Jealousy by observing what he thought was a disguise; when they were landed, the wicked Waterman undiscerned followed them, till he saw into what House they went, and then went to an Officer, and demanded *what he would give him to bring him to the Place where the Lord Capel lay*; and the Officer promising to give him ten Pounds, he led him presently to the House, where that excellent Person was seized upon, and the next Day carried to the *Tower*.

When the Petition that his Wife had presented was read, many Gentlemen spoke on his behalf, and mentioned the great Virtues which were in him, and, "That he had never deceived them or pretended to be of their Party, but always resolutely declared himself for the King:" And *Cromwel*, who had known him very well, spoke so much good of him, and professed to have so much kindness and respect for him that all Men thought he was now safe, when he concluded, "That his Affection to the Publick so much weighed down his private Friendship, that he could not but tell them, that the Question was now, Whether they would preserve the most bitter and the most implacable Enemy they had? That he knew the Lord *Capel* very well, and knew that he would be the last Man in *England* that would forsake the Royal Interest: That he had great Courage, Industry, and Generosity: That he had many Friends who would always adhere to

him: And that as long as he lived, what Condition soever he was in, he would be a Thorn in their sides; and therefore for the good of the Commonwealth, he should give his Vote against the Petition."

Ireton's Hatred was immortal; he spoke of him and against him, as of a Man of whom he was heartily afraid. Very many were swayed by the Argument that had been urged against Duke *Hamilton*; "That God was not pleased that he should escape, because he had put him into their Hands again, when he was at Liberty." And so after a long Debate, though there was not a Man who had not a Value for him, and very few who had a particular Malice or Prejudice towards him; the Question being put, the Negative was more by three or four Voices: So that of the four Lords, three were without the Mercy of that unmerciful People. There being no other Petition presented, *Ireton* told them, "That there had been great Endeavours and Sollicitation used to save all those Lords, but that there was a Commoner, another condemned Person, for whom no Man had spoke a Word, nor had he himself so much as petitioned them; and therefore he desired that Sir *John Owen* might be preserved by the meer Motive, and the goodness of the House itself;" which found little Opposition; whether they were fatiated with Blood, or that they were willing by this Instance, that the Nobility should see that a Commoner should be preferred before them.

A Scaffold was erected before *Westminster-Hall*, and all the Prisoners condemned were brought from *St James's* (as well the two who were reprieved, as the three who were to suffer) upon the ninth of *March*, that was at the end of the Year 1648, a little more than a Month after the Murder of the King, to Sir *Thomas Cotton's* House, at the upper end of *Westminster-Hall*, where they were suffered to repose themselves about the Space of an Hour, and then were led successively through the Hall to the Scaffold, Duke *Hamilton* being first; who seemed yet to have some hope of a Reprieve, and made some stay in the Hall, till the Earl of *Denbigh* came to him, and after a short whisper, in which he found there was no Hope, he ascended the Scaffold. He complained much of the Injustice that was done him; and that he was put to Death for obeying the Laws of his Country;

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'Country; which if he had not done, he must have been put to Death there.'

He acknowledged the Obligations he had to the King, and seemed not sorry for the Gratitude he had expressed, how dear soever it cost him. His natural Darkness and Reservation in his Discourse made him to be thought a wise Man, and his having been in Command under the King of Sweden, and his continual Discourses of Battels, and Fortifications, made him be thought a great Soldier. And both these Mistakes were the Cause that made him be looked upon as a worse and more dangerous Man, than in truth he deserved to be.

The Earl of Holland was brought next, who by his long Sickness, was so spent, that his Spirits served not to entertain the People with long Discourse. He spoke of his Religion, as a matter unquestionable, by the Education he had had in the Religious Family of which he was a Branch: Which was thought a strange Discourse for a dying Man, who though a Son, knew enough of the Iniquity of his Father's House; which should rather have been buried in Silence, than by such an unseasonable Testimony have been revived in the Memory and Discourse of Men. He took more care to be thought a good Friend to Parliaments, than a good Servant to his Master; and was thought to say too little of his having failed so much in his Duty to him, which most good Men believed to be the Source from whence his present Calamity sprung. He was a very well bred Man, and a fine Gentleman in good times; but too much desired to enjoy ease and plenty, when the King could have neither; and did think Poverty the most insupportable Evil that could befall any Man in this World. He was then so weak, that he could not have lived long; and when his Head was cut off, very little Blood followed.

The Lord Capel was then called, who walked through Westminster-Hall, saluting such of his Friends and Acquaintance as he saw there, with a very serene Countenance, accompanied with his Friend Dr Morley, who had been with him from the time of his Sentence; But at the Foot of the Scaffold, the Soldiers stopping the Doctor, his Lordship took his Leave of him; and embracing him, thank him; and said he should go no farther, having some Apprehension that he might receive some Affront by that rude People

after his Death; the Chaplains who attended the other Lords, being Men of the time, and the Doctor being well known to be most contrary.

As soon as his Lordship had ascended the Scaffold, he looked about and asked, *Whether the other Lords had spoken to the People with their Hats on?* and being told that they were bare; he gave his Hat to his Servant, and then with a clear and a strong Voice, he said, 'That he was brought thither to die for doing that which he could not repent of: That he had been born and bred under the Government of a King whom he was bound in Conscience to obey; under Laws to which he had been always obedient; and in the Bosom of a Church, which he thought the best in the World: That he had never violated his Faith to either of those, and was now condemned to die against all the Laws of the Land; to which Sentence he did submit.'

He enlarged himself in commending the great Virtue and Piety of the King whom they had put to Death; who was so just and so merciful a Prince; and prayed to God to forgive the Nation that Innocent Blood. Then he recommended to them the present King; who he told them, was their true and their lawful Sovereign, and was worthy to be so: That he had the Honour to have been some Years near his Person, and therefore he could not but know it well; and assured them that he was a Prince of great understanding, of an excellent Nature, of great Courage, an entire Lover of Justice, and of exemplary Piety; that he was not to be shaken in his Religion; and had all those Princely Virtues, which could make a Nation happy: And therefore advised them to submit to his Government, as the only means to preserve themselves, their Posterity, and the Protestant Religion. And having with great Vehemence recommended it to them, after some Prayers very devoutly pronounced upon his Knees, he submitted himself with an unparalleled Christian Courage, to the fatal Stroke, which deprived the Nation of the Noblest Champion it had.

He was a Man in whom the Malice of his Enemies could discover very few Faults, and whom his Friends could not with better accomplished; whom Cromwell's own Character well described, and who indeed would never have been contented to have lived under that Government.

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His Memory all Men loved and revered, though few followed his Example. He had always lived in a State of great Plenty and general Estimation, having a very noble Fortune of his own by Descent, and a fair Addition to it by his Marriage with an excellent Wife; a Lady of very worthy Extraction, of great Virtue and Beauty, by whom he had a numerous Issue of both Sexes, in which he took great Joy and Comfort; so that no Man was more Happy in all his Domestick Affairs; and he was so much the more happy, in that he thought himself most blessed in them.

And yet the King's Honour was no sooner violated, and his just Power invaded, than he threw all those Blessings behind him; and having no other Obligations to the Crown, than those which his own Honour and Conscience suggested to him, he frankly engaged his Person and Fortune from the beginning of the Troubles, as many others did, in all Actions and Enterprizes of the greatest Hazard and Danger; And continued to the end, without ever making one false Step, as few others did, though he had once, by the Iniquity of a Faction that then prevailed, an Indignity put upon him, that might have excused him from some remission of his former Warmth. But it made no other Impression upon him than to be quiet and contented, whilst they would let him alone, and with the same cheerfulness to obey the first Summons when he was

called out; which was quickly after. In a Word he was a Man, that whoever shall, after him, deserve best of the English Nation, he can never think himself undervalued, when he shall hear, that his Courage, Virtue, and Fidelity is laid in the balance with and compared to that of the Lord Capel.

So ended the Year one thousand six hundred forty eight; a Year of Reproach and Infamy above all Years which had passed before it; a Year of the highest Dissimulation and Hypocrisy; of the deepest Villany and most Bloody Treasons that any Nation was ever cursed with, or under: A Year in which the Memory of all the Transactions ought to be razed out of all Records, lest by the Success of it, Atheism, Infidelity and Rebellion should be propagated in the World: A Year of which we may say, as the Historian said of the time of Domitian, *Sicut vetus ætas vidit, quid ultimum in libertate esset ita nos quid in servitute*: Or as the same Writer says of a Time not altogether so wicked, *Is habitus animorum fuit, ut pessimum facinus auderent pauci plures vellent, omnes paterentur*.

The Tryal of Duke Hamilton is omitted, because it is contained in the former Collection; and as to the Earl of Holland, he made little or no Defence, but behaved himself says the Lord Clarendon, as one that would rather receive his Life by their Favour, then trust to the Strength of his Defence.

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Proceedings against JAMES GRAHME, Marquis of Montrose, for High Treason against the Usurpers at Edinburgh. Anno 1650. 3 CAR. II.

Marquis of Montrose.

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His Case.

THE Marquis being taken Prisoner in the High-Lands, and brought to Edinburgh by David Lesley, was met at the Gate by the Magistrates, who immediately caused him to be put into a new Cart made for that Purpose, in which there was a high Chair or Bench, upon which he sat, that the People might have a full View of him; being bound with a Cord drawn over his Breast and Shoulders, and fastened through Holes made in the Cart. When he was in this Posture, the

Hangman took off his Hat, and rode himself before the Cart in his Livery, and with his Bonnet on, the Officers who were taken Prisoners with him, walking two and two before the Cart; the Streets and Windows being full of People to behold the Triumph over a Person whose Name had made them tremble some few Years before, and into whose Hands the Magistrates of that Place had upon their Knees, delivered the Keys of that City. In this manner he

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he was carried to the common Goal, where he was received and treated as a common Malefactor. Within two Days after he was brought before the Parliament, where the Earl of *Lowden*, the Chancellor, made a very bitter and virulent Declamation against him; he told him, 'He had broken all the Covenants by which that whole Nation stood obliged; and had impiously rebelled against God, the King, and the Kingdom; That he had committed many horrible Murthers, Treasons, and Impieties, for all which he was now brought to suffer condign Punishment:' with all those insolent Reproaches upon his Person and his Actions, which the Liberty of that Place gave him leave to use.

Permission was then given him to speak; and without the least Trouble in his Countenance, or Disorder upon all the Indignities he had suffered; he told them, 'Since the King had owned them so far as to treat with them, he had appeared before them with Reverence and Bare-headed, which otherwise he would not willingly have done: That he had done nothing of which he was ashamed, or had Cause to repent: That the first Covenant he had taken and complied with it, and with them who took it, as long as the Ends for which it was ordained were observed: But when he discovered, which was now evident to all the World, that private and particular Men designed to satisfy their own Ambition and Interest, instead of considering the publick Benefit; and that under the pretence of reforming some Errors in Religion, they resolved to abridge and take away the King's just Power, and lawful Authority, he had withdrawn himself from that Engagement: That for the League and Covenant he had never taken it, and therefore could not break it: And it was now too apparent to the whole Christian World, what monstrous Mischiefs it had produced: That when under Colour of it an Army from *Scotland* had invaded *England*, in Assistance of the Rebellion that was then against their lawful King, He had by his Majesty's Command received a Commission from him to raise Forces in *Scotland*, that he might thereby divert them from the other odious Prosecution: That he had executed that Commission with the Obedience and Duty he owed to the King: And in all the Circumstances of

'it had proceeded like a Gentleman: And had never suffered any Blood to be shed but in the heat of the Battel: And that he saw many Persons there whose Lives he had saved: That when the King commanded him, he laid down his Arms and withdrew out of the Kingdom, which they could not have compelled him to have done. He said, he was now again entred into the Kingdom by his Majesty's Command, and with his Authority: And what Success soever it might have pleased God to have given him, he would always have obeyed any Commands he should have received from him. He advised them, to consider well of the Consequence before they proceeded against him, and that all his Actions might be examined, and judged by the Law of the Land, or those of Nations.'

As soon as he had ended his Discourse, he was ordered to withdraw, and after a short Space was brought in again, and told by the Chancellor that he was on the Morrow, being the 21st Day of May 1650, to be carried to *Edinburgh-Castle*, and there to be hanged upon a Gallows thirty Foot high, for the Space of three Hours, and then to be taken down, and his Head to be cut off upon a Scaffold, and hanged on *Edinburgh-Tolbooth*, his Legs and Arms to be hanged up in other publick Towns of the Kingdom, and his Body to be buried at the Place where he was to be executed, except the Kirk should take off his Excommunication, and then his Body might be buried in the common place of Burial. He desired that he might say somewhat to them, but was not suffered, and so was carried back to the Prison.

That he might not enjoy any ease or quiet during the short Remainder of his Life, their Ministers came presently to insult him, with all the Reproaches imaginable pronounced his Damnation, and assured him, that the Judgment he was the next Day to suffer, was but an easy Prologue to that which he was to undergo afterwards. After many such Barbarities, they offered to intercede for him to the Kirk upon his Repentance, and to pray with him; but he too well understood the Form of their Common Prayer in those Cases, to be only the most virulent and insolent Imprecations upon the Persons of those they prayed against (*Lord Vouchsafe yet to touch the obdurate Heart of this proud and incorrigible Sinner, this wicked,*

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Wicked, Perjured, Traiterous and Prophan Person, who refuses to hearken to the Voice of thy Kirk, and the like Charitable Expressions) and therefore he desired them to spare their Pains, and to leave him to his own Devotions. He told them that they were a miserable deluded and deluding People, and would shortly bring that poor Nation under the most insupportable Servitude ever People had submitted to. He told them, he was prouder to have his Head set upon the Place it was appointed to be, than he could have been to have had his Picture hang in the King's Bed-Chamber; that he was so far from being troubled that his four Limbs were to be hanged in four Cities of the Kingdom, that he heartily wished that he had Flesh enough to be sent to every City in *Christendom*, as a Testimony of the Cause for which he suffered.

The next Day they executed every Part and Circumstance of that barbarous Sentence, with all the Inhumanity imaginable; and he bore it with all the Courage and Magnanimity, and the greatest Piety, that a good Christian could manifest. He magnified the Virtue, Courage and Religion of the last King; exceedingly commended the Justice and Goodness, and Understanding of the present King; and prayed that they might not betray him, as they had done his Father. When he had ended all he meant to say and was expecting to expire, they had yet one Scene more to Act of their Tyranny. The Hangman brought the Book that had been published of his truly Heroick Actions, whilst he had commanded in that Kingdom; which Book was tied in a small Cord that was put about his Neck. The Marquis smiled at this new Instance of their Malice, and thanked them for it; and said, 'He was pleased that it should be there, and was prouder of wearing it than ever he had been of the Garter;' and so renewing some Devout Ejaculations, he patiently endured the last Act of the Executioner.

Soon after the Officers who had been taken with him, Sir *William Hurry*, Sir *Francis Hay*, and many others of as good Families as any in the Kingdom, were executed to the Number of thirty or forty, in several Quarters of the Kingdom, many of them were suffered to be Beheaded.

There was one whom they thought fit to save, one Colonel *Whitford*, who when he was brought to die, said he knew the Reason why he was put to Death; which was only because he had killed *Dorislau's* at the *Hague*, who was one of those who had joined in the Murther of the last King. One of the Magistrates who were present to see the Execution, caused it to be suspended, till he presently informed the Council what the Man had said; and they thought fit to avoid the Reproach, and so preserved the Gentleman, who was not before known to have had a Hand in that Action.

Thus did the Gallant Marquis of *Montrose*, after he had given as great a Testimony of Loyalty and Courage as a Subject can do, and performed as wonderful Actions in several Battels, upon as great Inequality of Numbers, and as great Disadvantage in respect of Arms, and other Preparations for War, as have been performed in this Age. He was a Gentleman of a very ancient Extraction, many of whose Ancestors had exercised the highest Charges under the King in that Kingdom, and had been allied to the Crown itself. He was of very good Parts, which were improved by a good Education. He had always a great Emulation, or rather a great Contempt of the Marquis of *Argyle*, (as he was too apt to condemn those he did not love), who wanted nothing but Honesty and Courage to be a very extraordinary Man, having all other good Talents in a very great Degree. *Montrose* was in his Nature fearless of Danger, and never declined any Enterprize for the Difficulty of going through with it, but exceedingly affected those which seemed desperate to other Men, and did believe somewhat to be in himself above other Men, which made him live more easily towards those who were, or were willing to be inferior to him (towards whom he exercised wonderfull Civility and Generosity) than with his Superiors or Equals. He was naturally jealous, and suspected those who did not concur with him in the way, not to mean so well as he. He was not without Vanity, but his Virtues were much superior; and he well deserved to have his Memory preserved and celebrated among the most illustrious Persons of the Age in which he lived.

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Gentlemen
executed
with the
Marquis of
Montrose.

Earl of Clarendon.

Proceedings against EDWARD Earl of Clarendon, for High Treason, Anno 1663. 15 CAR. II.

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Articles of High Treason, and other High Crimes and Misdemeanours exhibited against Edward Earl of Clarendon, Lord High Chancellor of England, in the House of Peers by the Earl of Bristol.

Article I.

The Articles against him.

THAT being in a Place of Highest Trust and Confidence with his Majesty, and having arrogated a supreme Direction in all his Majesty's Affairs, both at home and abroad, hath wickedly and maliciously, and with a traiterous Intent to draw Scandal and Contempt upon his Majesty's Person, and to alienate from him the Affections of his Subjects, abused the said Trust in manner following, *viz.*

That he hath traiterously and maliciously endeavoured to alienate the Hearts of his Majesty's Subjects from him, by Words of his own, and by artificial Insinuations of his Creatures and Dependants, that his Majesty was inclined to Popery, and had a Design to alter the Religion established in this Kingdom.

That in Pursuance of that traiterous Intent, he hath to several Persons of his Majesty's Privy Council, held Discourses to this Effect, *viz.*

That His Majesty was dangerously corrupted in his Religion, and inclined to Popery.

That Persons of that Religion had such Access and such Credit with him, that unless there were a careful Eye had unto it, the Protestant Religion would be overthrown in this Kingdom; and in pursuance of the said wicked and traiterous Intent, upon his Majesty's admitting Sir Henry Bennet to be Principal Secretary of State in the Place of Mr Secretary Nicholas, he hath said these Words, or Words to this Effect:

That his Majesty had given ten thousand Pounds to remove a zealous Protestant, that he might bring into that Place of High Trust a concealed Papist; notwithstanding the said Sir Henry Bennet is

known to have ever been, both in his Profession and Practice, constant to the Protestant Religion.

That in pursuance of the same traiterous Designs, several near Friends and known Dependants of his, had said aloud, *That were it not for my Lord Chancellor's standing in the Gap, Popery would be introduced in this Kingdom; or Words to that Effect.*

That in pursuance of the aforesaid traiterous Design, he hath not only advised and persuaded the King to do such Things contrary to his own Reasons and Resolutions, as might confirm and encrease the Scandal which he had endeavoured to raise upon his Majesty as aforesaid, of his Favour to Popery, but more particularly to allow his Name to be used to the Pope and several Cardinals, in the Sollicitation of a Cardinal's Cap for the Lord Aubigny, one of his own Subjects, and Great Almoner at present to his Royal Consort the Queen.

That in pursuance of the same wicked and traiterous Design, he had recommended to be employed to the Pope, one of his own Domesticks, Mr Richard Bealing, a Person (tho' an avowed Papist) known to be trusted and employed by him in Dispatches and Negotiations concerning Affairs of greatest Concernment to the Nation.

That in pursuance of the said traiterous Design, he being the Chief Minister of the State, did himself write by the said Mr Richard Bealing Letters to several Cardinals, pressing them in the King's Name to induce the Pope to confer a Cardinal's Cap on the said Lord Aubigny, promising, in case it should be attained, Exemption to the Roman Catholics of England from the penal Laws in Force against them; by which Address unto the Pope for that Ecclesiastical Dignity for one of his Majesty's Subjects and Domesticks, he hath, as far as from one Action can be inferred, traiterously acknowledged the Pope's Ecclesiastical

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faistical Sovereignty, contrary to the known Laws of this Kingdom.

That in pursuance of the same traitorous Design, he has called unto him several Priests and Jesuits, whom he knew to be Superiors of Orders here in *England*, and desired them to write to their Generals at *Rome*, to give their Help for the obtaining from the Pope the Cardinal's Cap for the Lord *Aubigny*, as aforesaid, promising great Favour to Papists here, in case it should be effected for him.

That he had promised to several Papists, he would do his Endeavour; and said he hoped to compass the taking away all Penal Laws against them, which he did in pursuance of the traitorous Design aforesaid, to the Intent they might presume and grow vain upon his Patronage, and by their publishing their Hopes of a Toleration, encrease the Scandal endeavoured by him and by his Emissaries to be raised upon his Majesty throughout the Kingdom.

That in pursuance of the same traitorous Design, being intrusted with the Treaty betwixt his Majesty and his Royal Consort the Queen, he concluded it upon Articles scandalous and dangerous to the Protestant Religion.

That in pursuance of the same traitorous Design, he concluded the same Marriage, and brought the King and Queen together without any settled Agreement in what manner the Rights of Marriage should be performed; whereby the Queen refusing to be married by a Protestant Priest in case of her being with Child, either the Succession should be made uncertain for want of the due Rights of Matrimony, or else his Majesty shall be exposed to a Suspicion of having been married in his own Dominions by a *Romish* Priest; whereby all the former Scandals endeavoured to be raised upon his Majesty by the said Earl, as to Point of Popery, might be confirmed and heightened.

That having thus traitorously endeavoured to alienate the Affections of his Majesty's Subjects from him upon the Score of Religion, he hath endeavoured to make use of all the malicious Scandals and Jealousies, which he and his Emissaries had raised in his Majesty's Subjects, to raise from them unto himself the popular Applause of being the Zealous Upholder of the Protestant Religion, and a Promoter of new Severities against Papists.

That he hath traitorously endeavoured to alienate the Affections of his Majesty's Subjects from him, by venting in his own Discourse, and by the Speeches of his nearest Relations and Emissaries, opprobrious Scandals against his Majesty's Person and Course of Life, such as are not fit to be mentioned, unless Necessity in the way of Proof shall require it.

That he hath traitorously endeavoured to alienate the Affections of his Highness the Duke of *York* from his Majesty, by suggesting unto him Jealousies, as far as in him lay, and publishing abroad, by his Emissaries, that his Majesty intended to legitimate the Duke of *Monmouth*.

That he hath wickedly and maliciously, contrary to the Duty of a Privy-Councillor of *England*, and contrary to the perpetual and most important Interest of this Nation, persuaded his Majesty, against the Advice of the Lord General, to withdraw the *English* Garrisons out of *Scotland*, and to demolish all the Forts built there, at so vast a Charge to this Kingdom.

That his Majesty having been graciously pleased to communicate the Desires of the Parliament of *Scotland* for the Remove of the said Garrisons to the Parliament of *England*, and to ask their Advice therein, the said Earl of *Clarendon* not only persuaded his Majesty actually to remove those Garrisons, without expecting the Advice of his Parliament of *England* concerning it, but did by Menaces of his Majesty's Displeasure, deter several Members of Parliament from moving the House as they intended, to enter upon Consideration of that matter.

That he had traitorously and maliciously endeavoured to alienate his Majesty's Affections and Esteem from this his Parliament, by telling his Majesty, *That there was never so weak and inconsiderable a House of Lords, nor ever so weak and beady a House of Commons; or Words to that Effect; particularly, That it was better to sell Dunkirk, than to be at their Mercy for Want of Money; or Words to that Effect.*

That he hath wickedly and maliciously, contrary to his Duty of Counsellor, and of a known Law made last Sessions, by which Money was given and particularly applied for the maintaining of *Dunkirk*, advised and effected the Sale of the same to the *French* King.

That

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That he hath contrary to Law, enriched himself and his Treasures by the Sale of Offices.

That contrary to his Duty, he hath wickedly and corruptly converted to his own Use, great and vast Sums of publick Money raised in *Ireland* by way of Subsidy; private and publick Benevolency, and otherwise, given and intended to defray the Charge of Government in that Kingdom; by which means a supernumerary and disaffected Army hath been kept up there for want of Money to pay them off, occasioned, it seems, because of the late and present Distempers of that Kingdom.

That having arrogated to himself a supreme Direction of all his Majesty's Affairs, he hath, with a malicious and corrupt Intention, prevailed to have his Majesty's Customs farmed at a far lower Rate than others do offer, and that by Persons, with some of whom he goes a Share in that and other Parts of Money resulting from his Majesty's Revenue.

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BRISTOL.

The same Day the abovesaid Articles were exhibited against the Earl of *Clarendon* the following Order was made by the House of Peers, viz.

Ordered by the Lords Spiritual and Temporal in Parliament assembled, That a Copy of the Articles or Charge of High Treason, exhibited this Day by the Earl of *Bristol* against the Lord Chancellor, be delivered to the Lord Chief Justice, who with all the rest of the Judges are to consider, whether the said Charge hath been brought in regularly and legally; and whether it may be proceeded in, and how; and whe-

ther there be any Treason in it or no; and make Report thereof to this House on *Monday* next, if they can, or else as soon after as possibly they may.

Whereupon all the Judges met at *Serjeants-Inn* in *Fleet-street*, and did upon Consideration unanimously agree upon this ensuing Answer, which on *Monday, July 13th*, the Lord Chief Justice *Foster* did deliver in, viz.

We conceive, That a Charge of High Treason cannot by the Laws and Statutes of this Realm, be originally exhibited by one Peer against another unto the House of Peers; and that therefore a Charge of High Treason by the Earl of *Bristol* against the Lord Chancellor, mentioned in the Order of Reference to us of the tenth of this Instant *July*, hath not been regularly and legally brought in; and if the matters alledged in the said Charge were admitted to be true, altho' alledged to be traiterously done, yet there is no Treason in it.

This Answer being read in the House of Peers, the Earl of *Bristol* took Exceptions at it, and some of their Lordships, who were Friends to the Chancellor inferred, That if it were not a regular and legal Charge, it was a Libel, and ought to be condemned, and the Author of it censured. To satisfy the House, one of the Judges, upon Conference with his Brethren, did on *Tuesday, July 14*, deliver the Reasons of the Opinion of the Judges in their said Answer. And the Earl of *Bristol*, a little to excuse himself, said the Articles were not intended by him as a Charge, but as an Information: And then their Lordships, after a Debate upon the Question, did unanimously resolve to declare their Concurrence with the Opinion of the Judges; and thereupon the Charge was dismissed.

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Proceedings

Proceedings against THOMAS OATES, and twenty *Oates, &c.*
Prisoners more for High Treason, by a Special Commis-
sion of Oyer and Terminer at York, in the Month of
January, 1663-4. 15 CAR. II.

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The Charge.

THE Prisoners were Indicted of High Treason, in conspiring the Death of the King, and levying War against his Majesty: To which they pleaded *Not Guilty*. Several of them confessed enough to convict them; and declared in the Face of the Court, That in such a Cause they valued Life no more than the Judge did his Handkerchief.

The Witnesses being produced, it appeared upon the Evidence, That there was a Conspiracy between the Republicans and Fanaticks of all Denominations to take up Arms for reviving the good old Cause, particularly in the Northern Counties; and that the Conspirators held a Correspondence with their Brethren in Ireland, Scotland and London, and had their Agitators and Agents in most Counties of England to form Bodies of Troops out of the old Soldiers bred in the late Usurper's Armies.

That they had assembled at several Places in *Yorkshire*, and particularly at *Stan-House*; and that they had taken an Oath of Secrecy to prevent Discovery: That they had agreed to rise on the 12th of *October*, and gave Assurance to their Friends, that the Insurrection would be general; That *Whitehall* should be secured; That *Nottingham*, *Gloucester* and *Newcastle* should be seized for the most convenient Passes over the *Severne*, *Trent* and *Tine*; and *Boston* in *Lincolnshire* for a Sea-Port to receive Succours out of *Holland* and other Foreign Parts. Their Pretences were to redeem themselves from the Excise, and all Subsidies; to re-establish a Gospel Magistracy and Ministry; to restore the Long Parliament, and to reform all Orders and Degrees of Men, especially the Lawyers and Clergy. In order to this, they printed a Sort of Declaration or Call to Rebellion, beginning in these Words; *If there be any City, Town or Country in the three Nations, that will begin this*

Righteous and Glorious Work, they may be assured, &c. according to which a considerable Number of them appeared in Arms at *Farnly-Wood* in *Yorkshire*.

But some of the principal Conspirators having been discovered and secured, and the time and Places of Rendezvous known, the Militia were drawn out, and some regular Troops sent into *Yorkshire*, which took several of them up, and prevented the Execution of their Design.

Their principal Leaders were Conventicle Preachers; and the Plot had been on Foot two Years, carried on by a private Committee that sat in *London*; That in *July* last they had twelve hundred Horse in Readiness in *England*; That they had a particular Design to unite all the Sectaries against the Government, and had proposed *Lambert* and *Ludlow* for their Chiefs; That the Rising was to begin in *Ireland*, afterwards to follow in *England*, and then in *Scotland*. *Walters*, one of the Evidences, declared who were to command in the *West-Riding*, who in the *East-Riding*, and who in the *North-Riding* in *Yorkshire*, who in *Nottinghamshire*, *Lancashire*, and the Bishoprick of *Durham*; and what Numbers; who were their Agents; where their Meetings were; and what Places and Passes they were to surprise: That they were under an Engagement to seize the Horse and Arms of the Lord *Falconsbridge*, and the Lord *Fairfax* of *Gilling*; and that they designed to secure all the Prisoners they took in *Skipton Castle*.

The Prisoners being all convicted of the Conspiracy upon full Evidence, the usual Sentence in High Treason passed upon them. Most of them were executed at *York*, three at *Leeds*, and several at their own Doors. About the same time several Printers and Booksellers of *London*, were accused for Printing and Publishing Sedicious and Treasonable Libels written

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by Milton and others, in Justification of the Murder of the late King, and maintaining the Lawfulness of Sub-

jects taking up Arms against their Sovereign, in Opposition to some Acts of Parliament.

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Duny, &c.

The Tryal of AMY DUNY and ROSE CULLENDER, both of Leystoff in the County of Suffolk, for Witchcraft, before Sir MATTHEW HALE, Knight, Lord Chief Baron of the Exchequer, at the Assizes held at St Edmondsbury, 10th of March, Anno 1664. 16 CAR. II.

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The Charge.

THE Prisoners, *Amy Duny* and *Rose Cullender* were severally Indicted for bewitching *Elizabeth Durent*, *Anne Durent* and *William Durent*, *Jane Bocking*, *Susan Chandler*, *Elizabeth Pacey* and *Deborah Pacey*, throwing them into Fits, and torturing them by various means.

While the Prosecutors were giving Directions for laying the Indictment, three of the afflicted Persons, viz. *Anne Durent*, *Susan Chandler* and *Elizabeth Pacey* fell into violent Fits, screaming in a dismal manner; so that they were incapable of giving their Evidence; and altho' they did at length recover out of their Fits, yet they continued speechless, till the Conviction of the Prisoners.

The Evidence.

The first Witness at the Tryal was *Dorothy Durent*, who deposed, That about the 10th of March, *nono Car. II.* her Business calling her from home, she left her Child *William Durent* (then a sucking Infant) to the Care of *Amy Duny* for a few Hours that she was absent; but strictly charged the said *Amy* not to give it suck: Being asked, what need there was of that Caution, *Amy* being an old Woman, and incapable of giving suck? *She answered*; She knew she could not give Suck; but one Reason was, *Amy* had long had the Reputation of a Witch; another was; it was usual with old Women, if they tended a sucking Child, and nothing else would please it, to give it the Breast, which must be pernicious to the Infant who sucked nothing but Wind. *She said farther*, That when she came home, *Amy* told her, That she

bad suckled her Child, contrary to her Orders; that upon this she was very angry with *Amy*, who then threatned her in a great Rage, saying, *She had better have done something else, than have found Fault with her*, and went away; and that very Night her Child was taken with strange and terrible Fits, and so continued for several Weeks.

The said Dorothy Durent farther said, That being full of Concern at her Child's Disorder, she went to one Dr. *Jacob*, who lived at *Yarmouth*, a Man famous for curing Persons bewitched. This Man advised her to hang the Child's Blanket all Day in the Chimney-Corner, and at Night to wrap her Child in it; advising her not to be afraid, if she saw any thing in the Blanket, but take it and fling it into the Fire: She did so; and at Night, when she lookt into the Blanket, there fell from it a great Toad, which ran about the Floor; and a young Man who was with this Witness caught the Toad, and held it in the Fire with a Pair of Tongs; immediately it made a great Noise, to which succeeded a Flash like Gunpowder, followed by a Report as great as that of a Pistol; and after this the Toad was no more seen, neither was it's Substance perceived to consume in the Fire.

She said farther, That a Niece of the said *Amy Duny* came to her (the Witness) the next Day, and told her, that her Aunt (meaning *Amy*) was in a sad Condition, her Face being scorched with Fire; and that she was sitting alone, stript to her Smock, without any Fire: That she (the

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Witness)

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Witness) went immediately to *Amy Duny*, and saw her Face, Legs and Thighs much scorched with Fire; That she asked *Amy* how she came in that Condition? *Amy* answered; *She might thank her for it; she was the Cause of it; but she should see some of her Children dead, and go on Crutches herself. The Witness said farther*, That since the burning the Toad, the Child was well.

She testified also, That about the 6th of March, 11 Car. II. *Elizabeth Durent* her Daughter, was taken with Fits like the first; and cryed out, *That Amy Duny appeared to her, and tormented her*; That she going to fetch some Physick for her Child, when she returned home, she found *Amy* there, who said, *She came to see her Child, and give it some Water*; at which she (the Witness) was very angry with her, and thrust her out of the House; upon which *Amy* said, *You need not be so angry, your Child will not live long*; which proved true; for her Child dyed in two Days after; and she really believed, that *Amy Duny* did bewitch her Child to Death, she having long had the Reputation of a Witch, and some of her Relations having suffered for Witchcraft.

She farther testified, That soon after the Death of her Daughter *Elizabeth*, she (the Witness) was taken lame in both her Legs, and was forced to go upon Crutches, which she continueth to do to this Time. The Court asked her, *Whether it were with her when she was took lame, according to the Custom of Women?* She answered, *It was, and always was so, but when she was with Child.*

While this Witness was giving her Evidence, *Elizabeth Pacey*, one of the Girls supposed to be bewitched, about eleven Years old, was taken with a Fit, and continued speechless. While she was in her Fit, she appeared at first without any Symptom of Life, saving that her Stomach and Belly, when she drew her Breath, would rise to a great Height; afterwards, when she was a little better, she leaned her Head upon a Cushion laid over the Bar of the Court, with her Apron over her Head, and her Hand upon it, and continued in this Posture, till by Order of the Judge *Amy Duny* was brought privately to her, and touched her Hand; upon which the Child, whose Eyes had been fast closed all this while, flew at *Amy*, and scratched her, and was hardly forced from her, and after-

wards made many Signs of Eagerness to come at her.

Deborah, her younger Sister, said to be bewitched also, was so ill, that she could not be brought to the Assizes. The Evidence relating to these two was as follows:

Samuel Pacey, of Leystoff, Merchant, being sworn, said, That on Thursday the 10th of October last, his younger Daughter *Deborah* about nine Years Old, was suddenly taken so lame, that she could not stand on her Legs, and so continued till the seventeenth of the same Month, when the Child desired to be carried to a Bank, on the East-side of the House towards the Sea; and while she was sitting there, *Amy Duny* came to this Examinant's House, to buy some Herrings, but was denied. Then she came twice more, but being often denied, she went away discontented and grumbling. At this Instant of time the Child was taken with terrible Fits, complaining of a Pain in her Stomach, as if she was pricked with Pins, shrieking out with a Voice like a Whelp, and thus continued till the 30th of the same Month.

In the mean time Dr *Feavour* was sent for, who declared to this Examinant (and afterwards at the Tryal) That he could not conceive the Cause of the Child's Affliction. And farther this Examinant saith, That *Amy Duny* having long had the Reputation of a Witch, and the Child having in the Intervals of her Fits, constantly cryed out on her, as the Cause of her Disorder; and said, that the said *Amy* did appear to her, and fright her. He did suspect the said *Amy Duny* to be a Witch, and charged her with being the Cause of the Child's Illness, and set her in the Stocks. That while she was in the Stocks, *Alice Letteridge* and *Jane Buxton*, (who afterwards deposed the same in Court) asked *Amy*, what was the Reason of Mr *Pacey's* Child's Illness, telling her they heard she had a Hand in it? She answered, *Mr Pacey keeps a great Stir with his Child, but let him stay till he has done as much by his Children, as I have done by mine.* Being asked what was that, she said, *She had been fain to open her Child's Mouth with a Tap, to give it Viſuals.*

He farther said, That two Days after his Daughter *Elizabeth* was taken with such strange Fits, that they could not force open her Mouth without a Tap, which they were compelled to use; and the younger Child being in the same

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same Condition, they used to her the same Remedy.

He said also, That both Children would grievously complain, that *Amy Duny*, and another Woman, whose Habit and Looks they described, did appear to them, and torment them, and would cry out, *There stands Amy Duny*, *There stands Rose Cullender*, the other Person who afflicted them.

Their Fits were not alike; sometimes they were lame on the right side, sometimes on the left; sometimes so sore they could not bear to be touched; sometimes perfectly well in other respects, but they could not hear; at other times they could not see; sometimes they lost their Speech for one, two, and once eight Days together. At times they had swooning Fits, and when they could speak, were taken with a Fit of Coughing, and vomitted Flegm and crooked Pins, and once a two-penny Nail with above forty Pins, which Nail the Examinant said he saw Vomitted up, and many of the Pins. The Nail and Pins were produced in the Court. They usually vomitted a Pin towards the end of a Fit, four or five of which they sometimes had in a Day.

Thus the Children continued for two Months, in which time this Examinant often made 'em read in the New Testament, and observed when they came to the Words *Lord, Jesus*, or *Christ*, they could not pronounce them, but fell into a Fit. When they came to the Word *Satan* or *Devil*, they would point and say, *This bites, but makes me speak right well*. He said, that in the Intervals of the Fits, which he thinks were occasioned by naming *Lord, Jesus*, or *Christ*, he asked them why they could not speak those Words, they would say, *Amy Duny saith I must not use that Name*.

He said also, That his Children would say *Amy Duny* often appeared to them, with *Rose Cullender*, and threatned them, *That if they told what they saw or heard, they would Torment them ten times more than ever they did before*. That the Children would run to the Place where they fancied them to be sometimes spinning, sometimes reeling, in various Postures, threatning them.

This Examinant saith farther, That finding his Children thus tormented, without Hopes of Recovery, he sent them to his Sister *Margaret Arnold*, at *Yarmouth*, being willing to try whether change of Air would help them, and refers to

her the Relation of what happened to them afterwards.

Margaret Arnold being sworn, said, That about the 30th of November, *Elizabeth* and *Deborah Pacey* came to her House, with her Brother, who told her what had happened at his House, and that he thought his Children bewitched; but she (this Examinant) did not much regard it, supposing the Children had played Tricks, and put the Pins into their Mouths themselves. She therefore took all the Pins from their Cloaths, sowing them with Thread instead of Pinning them. But notwithstanding they raised at times at least thirty Pins in her Presence, and had terrible Fits, in which Fits they would often cry out, upon *Amy Duny* and *Rose Cullender*, saying they saw them, and heard them threatning as before. That they saw things like Mice running about the House, and one of them caught one of them, and threw it into the Fire, which made a Noise like a Rat.

Another time the younger Child being out of Doors, a thing like a Bee would have forced it self into her Mouth, at which the Child ran screaming into the House, and before this Examinant could come to her fell into a Fit, and vomitted a Two-penny Nail with a broad Head; And after that, this Examinant asked the Child how she came by this Nail, she answered, *That a Bee brought the Nail and forced it into her Mouth*.

At other times the eldest Child told the Examinant, That she saw Flies bring her crooked Pins, and then she would fall into a Fit, and vomit such Pins. One time the said Child said she saw a Mouse, and crept under the Table to look for it; and afterwards the Child seemed to put something into her Apron, saying, *She had caught it*, and ran to the Fire and threw it in, on which did appear to this Examinant something like a Flash of Gunpowder, although she does own she saw nothing in the Child's Hand.

Once the Child being Speechless, but otherwise very sensible, ran up and down the House, crying, *Hush, Hush*, as if she had seen Poultry, but this Examinant saw nothing. At last the Child caught at something, and threw it into the Fire. Afterwards, when the Child could speak, the Examinant asked her what she saw at that time, she answered, *she saw a Duck*. Another time the youngest Child said after a Fit, that *Amy Duny* had been with her, and

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and tempted her to drown herself, or cut her Throat, or otherwise destroy herself. Another time they both cryed out of *Amy Duny* and *Rose Cullender*, saying, *Why don't you come yourselves? why do you send your Imps to torment us?*

This Examinant farther saith, That she did set down these things as they happened, and, that she does really believe these Children are bewitched by *Amy Duny* and *Rose Cullender*, although at first she was not inclinable to think so.

Anne Durent was another of the Persons afflicted, and then present in Court.

Her Father Edmund Durent, of Leystoff, being sworn, said, That towards the End of *November* last, *Rose Cullender* came to his House to buy Herrings of his Wife, who refused to let her have any; upon which the said *Rose* went away seeming angry. That afterwards on the first of *December* following, *Anne Durent* his Daughter, complained of a sad Pain in her Stomach, like the pricking of Pins, and soon after fell into swooning Fits; and upon her Recovery she cried out, That she had seen the Apparition of *Rose Cullender*, who threatened to torment her; and thus she continued (having vomited up several Pins which were produced in Court) until the Affizes. This *Anne Durent* was then in Court, but could not give her Evidence, by reason of strange Fits she fell into at the sight of *Rose Cullender*.

Anne Baldwin being sworn, testified the same thing as to *Anne Durent's* being bewitched.

Jane Bocking, another of the afflicted, was so ill that she could not come to the Affizes. But as to her

Diana Bocking, of Leystoff, was sworn, and said, Her Daughter *Jane Bocking* had been formerly troubled with Fits, but always recovered of them; but on the first of *February* last, she complained grievously of a strange Pain in her Stomach, as if it had been pricked with Pins, and fell afterwards into a Fit, and had many returns of these Fits, till this time eating little or nought, and often vomited crooked Pins, particularly on *Sunday* last she brought up seven of them. When she was in her Fits, she would spread abroad her Arms and use Postures as if she caught at something, with her Hands open; and then would shut them again; and upon opening her Hands crooked Pins were found in them, although it could not be perceived how

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they could be brought to her. At another time she talked in her Fits as if to some Person (although she would take no notice of any that were present) then she held out her Hand, saying, *I will not have it, I will not have it*. Afterwards she said, *I will*, and shut her Hands close, and upon forcing her Hand open, was found in it a Lath Nail. She often cryed out in her Fits, *there stands Rose Cullender at the Bed's Feet*; sometimes she said, *She saw her at the Bed's Head*, and sometimes in other Places. Afterwards she was speechless for several Days, though not in Fits. When she could speak, she desired some Meat, and being asked why she did not speak in so many Days, she said *Amy Duny* would not let her. The Pins and Nails were shewn in Court.

As to Susan Chandler, another of the afflicted, and in Court, her Mother Mary Chandler, being sworn, said, That about the beginning of *February* last, she was appointed among five other Women, by *Sir Edmond Bacon*, (who had granted a Warrant against the Prisoners upon the Complaint of *Mr Pacey*) to search the Bodies of the Prisoners. That they went to *Rose Cullender* and told her, they had Orders to search her Body, which she consented to. That having stript her naked, they began at her Head, and towards the Bottom of her Belly they found something like a Teat, about an Inch long. Being Questioned about it, she said, *She had got a Strain by carrying Water, which was the Cause of her Excrecence*. On farther Search they found in her Privities more of these Teats, but smaller than the other. *This Examinant saith farther*, That at the End of the long Teat, was a little Hole, that it seemed to have been newly sucked, and it being squeezed, there came out White Milky Matter.

She said also, That her Daughter *Susan*, then a Servant in *Leystoff*, and about eighteen Years old, having Business to rise the next Morning to Wash, saw *Rose Cullender* appear to her, and the said *Rose* took her by the Hand, at which she was much frightened, and came to this Examinant and told her of it. Then she fell extreamly sick, complaining grievously of her Stomach; and that Night being in Bed with another young Woman, she shrieked out, crying, *Rose Cullender* would come to Bed to her, and fell into grievous Fits, beating herself in a terrible manner. In her Intervals, she said some-

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times, *She saw* Rose Cullender, sometimes, *She saw her and a great Dog with her.* She vomited many crooked Pins, and was sometimes stricken blind, at other times Dumb, as she was for the present in Court, but being carried out, in half an Hour she recovered her Speech, and being brought in again and asked whether she could give her Evidence, she said she could. But being sworn and asked what she could say against the Prisoners, she fell into a grievous Fit, and cried out *Burn her, Burn her*, which was all she could say.

Robert Chandler being sworn, agreed with his Wife in all Parts of her Evidence, except that concerning the searching *Rose Cullender*.

This was all the Evidence relating to the bewitching these Children. At the Tryal were many eminent Persons, and among the rest Mr Serjeant Keeling, who was unsatisfied with the Evidence, which he thought not sufficient to convict the Prisoners. For supposing these Persons were bewitched, yet their Imagination only was not sufficient to fix it on the Prisoners; else who would be safe, since their Fancies might possibly run on an innocent Person.

The learned Doctor Browne of Norwich, being also present, was desired to give his Opinion of the three Persons in Court. He said he was clearly of Opinion, that they were bewitched; that there had lately been a discovery of Witches in Denmark, who used the same way of tormenting Persons, by conveying crooked Pins, Needles, and Nails into their Bodies. That he thought in such Cases the Devil acted upon Human Bodies by natural means, viz. by exciting and stirring up the super-abundant Humours, he did afflict them in a more surprizing manner, by the same Diseases their Bodies were usually subject to. That these Fits might be natural, only raised to a great degree, by the Subtily of the Devil, co-operating with the Malice of these Witches.

Besides the abovementioned Particulars, other Tryals were made to satisfy the Court, that the Children were really bewitched.

At first the Prisoners were brought into Court to the afflicted to touch them, and upon the least Touch of them (of *Rose Cullender* in particular though before they seemed void of all Sense, and their Fists were fast clenched, so that a strong Man

could not force them open) they instantly shrieked out, and opened their Hands, but when any other Person touched them, they took no notice of it; and although they were blinded, least they should privately see, *Rose Cullender's* touching them had the same Effect.

An ingenious Person that was present, objected, That this Experiment was not sufficient to find the Prisoners Guilty, since the Children might counterfeit, and perceiving when she touched them, put themselves into these violent Motions.

It was therefore privately desired by the Judge, that some eminent Gentlemen in Court would attend one of the distempered Persons, while she was in her Fits, at the other end of the Hall, and bring one of the Witches to her, and see what would follow. They did so, and the Maid being blinded, *Amy Duny* was brought near, but another Person touched her, and the Touch had the same Effect with that which the Witches had. Whereupon the Gentlemen returned, and protested they believed the whole Business an Imposture. This put the whole Court to a stand. At that Mr Pacey said, the Maid might be deceived by a Suspicion that the Witch touched her, when she did not. That he observed, that in all her Fits she was sensible of what was done to her, which was afterwards confirmed by the Maid, when she recovered, on Conviction of the Prisoners. And in some Mens Opinion, this was rather a Confirmation that they were really bewitched, than a Sign of Fallacy. For it is impossible, that Children as they were, and of several Families no way related to each other, should be able all to deceive their Relations, and it is unreasonable to think that they should conspire together to take away the Lives of two silly Women; and the Prisoners themselves did scarce so much as object that there was any Malice in the Case. Therefore say they, that extraordinary Commotion of the Spirits of the Children, at the approach of these Women, and no others, shews that they were the Persons that did bewitch 'em.

Secondly, John Soam, of Leystoft, being sworn, said, That not long since he had three Harvest-Carts, going into the Field to load, that one of them wrenched the Window of *Rose Cullender*, who came out and threatened him. That the other Carts went well enough, but this was overturned twice or thrice that Day. That they could not get it through a Gate,

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Gate, 'till they had cut down the Posts, although the Cart did not touch them, neither could they bring it to the Place where they would unload it, till the next Morning, and then they did it easily.

Robert Sherringham being sworn, said, That about two Years since the Axle-Tree of his Cart broke down part of *Rose Cullender's* House, upon which she threatened him in a great Rage, that his Horses should suffer for it. That soon after all those Horses, being four, died. That he has since had great Losses in his Cattel, and was shortly after taken lame for some Days, but recovered, but was so plagued with great Lice, that he was forced to burn two Suits of Cloaths, and then was well again.

Richard Spencer being sworn, said, That on the first of September last, he heard *Amy Duny* say, *That the Devil would not let her rest, till she was revenged on Cornelius Sandeswell's Wife,*

Anne, Wife to Cornelius Sandeswell, deposed on Oath, That seven or eight Years ago, she having bought some Geese, *Amy* told her, *If she did not fetch them home, they'd be destroyed,* which happened accordingly. That *Amy* told her Husband, (who was her Landlord) that he must take care of such a Chimney, or it would fall. That this Examinant replied, *'twas a new one.* Soon after the Chimney fell down, as *Amy* had said. She said farther, That having a Firkin of Fish sent to her, which lay in *Leystoff* Road, she desired *Amy* to go with her, to help bring it home. *Amy* replied, *She would go when she had it; Then this Examinant said,* That she went to the Boat-man and demanded the Firkin; the Man told her, *They could not keep it in the Boat from falling into the Sea, they thought it was gone to the Devil, they never saw the like before.* She asked them, *Whether they lost any other Goods?* they said, *Not any.*

This was all the Evidence. The Prisoners saying nothing material to any thing that was proved against them, the Judge, in his Direction to the Jury, waved repeating the Evidence, to avoid any Mistake, and told the Jury there were two things they were to enquire into, *First,* Whether or no these Children were bewitched. *Secondly,* Whether these Women did bewitch them.

He said he did not in the least doubt but there were Witches: *First,* Because the Scriptures affirm it. *Secondly,* Because

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the Wisdom of all Nations, particularly our own, hath provided Laws against Witchcraft, which implies their Belief of such a Crime. He desired them strictly to observe the Evidence, and begged God to direct their Hearts in the weighty Concern they had in Hand, since to condemn the Innocent, and let the Guilty go free, are both an Abomination to the Lord.

The Jury went from the Bar, and in half an Hour brought them in Guilty of all the Indictments, being thirteen in Number. They are convicted,

The next Morning the three Children came to Sir *Matthew Hale's* Lodgings very well: And Mr *Pacey* being asked at what time they were thus restored to their Speech and Health, he answered, That within half an Hour after the Conviction of the Prisoners, they were all restored to Health, and slept well that Night without Pain, except *Susan Chandler*, who complained of a Pain like pricking of Pins in her Stomach.

After this they came into Court, but *Anne Durent* was afraid to look on the Witches, and prayed that she might not see them. But the other two declared in open Court before the Prisoners, (who did not much contradict them) that all that had been sworn to was true. After this the whole Court being satisfied with the Verdict, the Witches were sentenced to be hanged.

Great endeavours were used to bring them to Confession, but in vain, and they were executed on Monday the 17th of March, but confessed nothing.

Bishop *Hutchinson* in his Remarks on this Tryal, says he has a great Veneration for the Lord Chief Baron *Hale* that tried these Prisoners, but he could not so far forget the common Frailties of Human Nature, as to think a great Man could not be in one Error —. He observes also, That there were signs of great Zeal and Forwardness in the Prosecutors. They laid no less than thirteen Indictments against them. By which means they gave Evidence of things that had been said, and done long before, at distant Times and Places, and when they were laid together they supported one another, and made a greater Appearance of Guilt than they had at the several times when they were done.

Notwithstanding this, considering how very few things they could prove, that were real Facts of the supposed Witches doing.

Bishop
Hutchinson's
Remarks on
this Tryal.

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doing, one single Witness, *Dorothy Durent*, confessed of herself, that which was a more Criminal Act of Sorcery, than all they could prove against the other two. For of Facts, of their doing, I see little besides giving a Child an empty Breast seven Years before to quiet it, and giving another a little Water, which is usually done in Vapours, and by a Construction that seems very unaccountable, they would make those innocent Actions to be employing of Spirits, and working by the Devil; But the said *Dorothy Durent*, having been with a Witch-Doctor, acknowledges upon Oath, that by his Advice she changed the Child's Blanket in the Chimney, found a Toad in it at Night, had put it into the Fire, and held it there though it made a great and terrible Noise, and flash'd like Gunpowder, and went off like a Pistol, and then became invisible, and that by this the Prisoner was scorched and burned lamentably.

Now I own I do not believe this Witness, for she must be a silly loose Woman, or she would not have gone to the Witch-Doctor. Then her Testimony is not rational: She saith, she believed her a Witch, and yet left her Child to be tended by her. She makes the Prisoner's giving the Child her empty Breast, to be both an usual way to quiet a Child, and yet be also an Act of Witchcraft. She saith the Prisoner was very much scorcht and burnt with Fire, and yet no Scars or Signs of burning were shewn, though Fire-Scars, where real, do not soon wear out, and therefore I believe she was a lying old Woman. But suppose it literally true, as she saith, and what follows? Why the only sure Conclusion is, that she charged herself with real Sorcery in all its several Steps and Gradations. She first departed from God, by forsaking his way of Prayer and natural Means, and leaving the Event to his Providence. She employed the Devil by the use of a Charm, which she knew could have no Effect without the Devil's help. After she found a Toad in the Child's Blanket, which could not get into it in the Chimney but by the same Power, as Witches use to Roast the Representation of the Party to be afflicted, so she burnt the Toad, and if there be any Truth in her Words, afflicted this *Rose Cullender* the Prisoner by that Act of hers. And what Judgment can be made of this matter? Why first take it in the hardest Sense against the Prisoner, and imagine, that by some Prior Acts of

Sorcery she had made herself Subject to this Power of the Devil, yet both are Guilty within the Statute, and are but two Witches trying to persecute one another.

Olaus Magnus, and the Jesuit *Delrio* and *Sbefferius*, and others that are deep in the belief of these dark Notions, give us Relations of eminent Magicians, that had great Contests with one another, and used Charm against Charm, and Spirit against Spirit, till the less potent Conjuror was subdued or killed by the more powerful. And therefore if we suppose Sorcery in this Case before us, we have but Witch against Witch, both employing Spirits, and therefore both to be punished; for the Law is not partial, but punishes all equal Facts wherever it finds them. Our Statute forbids all manner of use and exercise of any Sorcery or Charm for employing Spirits, and punisheth the Guilty Person with Death if they do Harm to Man or Beast, and with Imprisonment and Pillory though their Charms have no Effect. And therefore as upon the first Supposition they both stand Guilty, they are both in Danger according as they shall meet with Judges and Juries that will be partial or impartial in the Execution of that Statute.

But this is the hardest Sense that can be put upon the Prisoner's Case, and the true State of it is much better on her side. For here are Charms and Sorcery on one Hand, and nothing on the other. For this *Rose Cullender* at the time when this Sorcery was used against her, was convicted, unaccused, under the Protection of the Law, and I doubt not, was an innocent Woman. For her being afflicted by this Witness's Sorcery was no Proof of her Guilt, even though the Fact was true; for we have a thousand Stories which teach us, that innocent Persons may be afflicted, even sucking Children in their Mothers Arms.

If it be objected, that this Witness did not hang up the Blanket in the Chimney with a design to make herself a Witch, but to discover one she suspected; I answer, she tried to make the Discovery by a Charm and Sorcery; for the Blanket in the Chimney was not a common Act, but designed for a Spell or Call to a Spirit: And therefore she tried to discover the Witch by employing the Devil to afflict another, and by that to let her know whether the other was a Witch. And is not this a hopeful Evidence, and fit to be laid

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laid before a Christian Court of Justice. Had this wife Witness another Charm to cure the Devil of his double dealings, and held him so fast by the Ear, that he should only have Power to burn *Rose Cullender*, but not to deceive her self by any juggling Delusion? This doth not appear very evident. But as it is plain that she used a Charm and Sorcery, and tried to employ a Spirit; it is as plain, that at least she should have been set in the Pillory, as part of the Punishment that the Act of Parliament appoints for those evil Practices.

If this Construction of the Statute had been turned upon this first Witness, I doubt not but it would have made the rest more careful in their following Testimonies, but as the Tryal went forward, I shall take Leave to proceed in its Examination.

Mr Pacey the next Witness deposed, That *Amy Duny*, (and *Edmund Durent*, deposed, That *Rose Cullender*) came to their Houses to have bought some Herrings, and being denied they went away discontented and murmuring. And had they not very just Reason to find fault, when they whose Employment it was to sell such things, denied them Meat for their Money? For if others should be so distrustful of God, and unjust, and superstitious, they must of Necessity have perished for want of Food. And if it be really true, that the Devil gets an Advantage at such a time to do Mischief to their Children or Cattel, I ask you, or any Man to tell me, how that proves Witchcraft in the Person suspected? It hath a great Appearance of a Divine Providence and Permission, justly punishing ill Usage of the Poor, and Superstition; but it is no Proof, that the poor Women were Witches; for all that they did was, complaining where they had the highest Reason in the World to find fault. And I may add farther, That if we do allow such a Case to be a sufficient Proof of Witchcraft, unless God interposes by Miracle to prevent it, we give the Devil opportunity of making any of us suffer as Witches or Wizards, whenever we fall out our with Neighbours; for if he by the easy use of his natural Skill, doth an ill turn at such a time, we must be thought guilty of employing him to do it.

As to the Witness which deposed that *Amy Duny* said, *The Devil would not let her rest till she was revenged on Cornelius*

Sandewell's Wife. I think this saying is misunderstood and perverted, for what had she done, or what did she ever do against that Woman? She had told her, that if she did not fetch Home her Geese, they would be destroyed, and in a few Days it proved so. Then being a Tenant to her Husband, she told him (as this Woman saith) that if he did not take Care of such a Chimney in her House, it would fall; and he took no Care, and it did fall, though a new one. And they went seven or eight Years back for such trifling Stories, that were nothing but good Advice, of which they would make very wicked use. Then this said Zealous Woman added, That a Brother of hers had sent her a Firkin of Fish for a Present, but when she went to fetch it, the Seamen told her they believed the Devil was in it, for it leaped into the Sea and was gone. This I count to be only a Banter of the Seamens, and since none of the Seamen that had seen it, were there to give it upon Oath, but only this silly Woman swore they told her so; I doubt not but they had eaten her Fish, and then laughed at her for being contented with such an Answer. Carriers would have a fine time, if others would be satisfied as easily; but in Testimonies against Witches there is nothing too trifling.

Then pray observe *John Soam's* Evidence, and learn by that, whether I have spoken this last Word without Reason. *He deposed*, That he had three Carts to carry Corn; one of them wrenched *Amy Duny's* House, upon which she came out in a Rage and threatned. He doth not tell what terrible Words she used, and therefore we may believe, he called Scolding, Threatning; and being she had a real Damage, Scolding could be no mighty Fault in her. But he says, that Cart was overturned twice or thrice that Day. And I ask, Is it not likely, there was either a jadish Horse or a silly Driver, that belonged to that Cart? For before the poor Woman had spoken to them, that Cart could not keep the Road, but ran against her House. And without any Witchcraft, might not the same jadish Horse or bad Driver, make it go wrong afterward as well as before? But this Witness adds, That that Cart was set fast in a Gate-head, though it did not touch the Posts that they could perceive. But if it did not touch the Posts, what made them cut the Post down?

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Will cutting down a Post that is not touched, dissolve a Charm? But they make themselves ridiculous, that they might lay Blame upon the poor Woman. Then farther, this same Witness swears, that at the last Load at Night, the Men were weary, and could not unload that Cart. But in a Case of Blood, would this Bold Man venture to take his Oath, that after the Harvest-Labour of a long Summers Day, Men could not be weary without Witchcraft? Or might they not say, they were more weary than they were, because they had a Mind to leave off, perhaps for some other Reason that he knew not of? And if a Man's Nose bleed in Harvest, might not Heat and Labour cause that without a Devil? And that this Cart was not bewitched, they might more rationally have concluded from this, that the next Morning, when the Men had a mind to it, that Cart was unloaded as easily as the other.

But 'tis objected farther, That *Amy Duny* foretold the Childrens Fits with that odd Circumstance that their Mouths should be so closed, that they should take their Breath through Taps.

Now the Case was this: This poor Woman was set in the Stocks, and the People came about her and ask her the Reason of the Childrens Illness, and Charge her with it. She replied, *Mr Pacey keeps a great Stir about his Children, but let him stay until he hath done as much by his Children, as I have done by mine.* Now taking this without wresting her Words, and the meaning must needs be: Why should Mr Pacey make such a Wonder at his Child having Fits? My own Child hath been a great deal worse, and yet no Body thought mine bewitched, much less that I bewitched it. Then they asked how her Child had been? And she answered, That she had been fain to open her Child's Mouth with a Tap to give it Victuals. And the natural Consequence is, that if Mr Pacey's should be as ill, he would have no more Reason to think it bewitched, than she had to think that was hers. And who put those Taps into their Mouths? Did any invisible Agents, in a supernatural way? Did *Amy Duny's* Imp stick them in, when no Body else touched them? No, the People themselves put them in; and did it when they had no manner of need. For if their Mouths had been as fast closed as they would have us imagine, Breath through their Nostrils would have kept them from

any Harm. Or if they would needs have them breathe through their Mouths, why did they do it by Taps, rather than by any thing else? why not by a Quill, a Pipe, or any thing else that would have given Breath enough in a Fit, when perhaps very little Breath is wanted? Had the Devil laid all things out of the way save Taps? If not, what made them voluntarily chuse to lay the Children in such a ridiculous Posture with Taps sticking out of their Mouths, when they might either have put in any thing else, or have left them without any thing as safely? It seems very plain to me, that as before they had perverted the poor Woman's Words, they did this to make an Appearance of fulfilling them. And when silly People saw two sick Children lye with Taps in their Mouths, they thought that was such a Miracle, as plainly proved the Witchcraft; though the Taps were only put into the Childrens Mouths, by their own selves, when there was no occasion for doing it.

If it be farther objected, That when the Judge ordered one of Mr Pacey's Daughters to be Hoodwicked and tryed by one of the supposed Witches; the Child flew into a Rage at the Prisoners touch though her Face was covered. I answer this is not a lawfull Tryal, for if there be a Devil in the Case, it is giving him opportunity to perform his known Work of false Accusation, or at least it is a making use of his Testimony. But at this time the Experiment fell out so as to clear the Prisoners; for when my Lord Chief Baron desired the Lord Cornwallis, Sir Edmund Bacon, and Mr Serjeant Keeling, to try that Experiment in another Place; the Girl flew into the same Rage, at the touch of another Person: And therefore these Gentlemen came in and declared, that they believed it a mere Imposture. One would have thought that they should have put an effectual Stop to any farther Proceedings upon such dark Probabilities, and it did for a good while, but at length Mr Pacey, who should only have been Witness, turned Advocate, and said in more Words, but to this Purpose: That it was possible that the afflicted might be deceived, if they tried them with a wrong Person; for he had observed, that they had their Understanding. And of all things, I wonder how this happened to satisfy the Court, for it certainly makes against the Supposition of Witchcraft: For if they had their

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their Understanding in their Fits, it was the more likely, that what they did was their own Act, and proceeded not from the Devil, who would have not been imposed upon by a false Person but from their own Fears, and Fancies, or Designs.

As to the next Objection, That Sir Thomas Brown of Norwich, the famous Physician of his time, was in Court, and was desired by my Lord Chief Baron to give his Judgment in this Case: And he declared, *That he was clearly of Opinion, that the Fits were natural, but heightened by the Devil co-operating with the Malice of the Witches, at whose Instance he did the Villanies.* And he added, *That in Denmark there had been lately a great discovery of Witches, who used the very same way of afflicted Persons, by conveying Pins into them.*

This Declaration of Sir Thomas Brown's could not but much influence the Jury; and I count it turned back the Scale that was otherwise inclining to the Favour of the accused Persons; and with Submission I think it should not have been said; for this was a Case of Blood, and surely the King's Subjects ought not to lose their Lives upon the Credit of Books from Denmark. Besides this was an Indictment upon a Crime, concerning which 'tis a very hard Question, whether ever any one single Person was guilty of it, as it stood there charged? There were as many probable Signs of it in this Case, as had ever been in any; the Witnesses, the afflicted Persons, the supposed Witches, and very much of the Fact, were all before them. The Eyes of all curious Persons were upon this famous Court, in hopes of a Decision that might have put the matter beyond Controversy; but instead of this we meet with a vehement Prosecution, and a perplexed Case. Some declare their Opinions one way, and some another: The Judge puts it off from himself as much as he can, and desires Sir Thomas Brown's Opinion, which very Request supposes much Difficulty and Uncertainty. Sir Thomas decides the Case, not with the Addition of any Argument, but the Authority of some Books from Denmark. Now this leaves us as far from Satisfaction, as we were; for those Books from Denmark cannot be a sufficient Warrant for so great a Judgment. Perhaps these Tryals in Denmark were in a superstitious time, and before a Judge that had not been used to those Cases: Perhaps afterwards,

when they had time to consider what they had done, they might be as much concerned, as they were for such Mistakes in New-England: And if those Danish Witches were the four that were burnt at Koge two Years before that time, I must add, that the case has been answered since by Bekker, and tho' all the Notions in his Books are far from being right, yet as far as I can judge by his Abridgment of that Case, it seems to have been a very rash Prosecution, and an injudicious Sentence.

If it be demanded, how came this celebrated Judge to be so far satisfied, as to condemn the Prisoners? I answer; There was the Spectre Evidence, and Pins and Nails, and if the Witnesses spake Truth, there was a Diabolical Interposition in some of the Facts. And this makes such an Appearance of fixing the Guilt upon the Persons accused, as few have seen thorough it, 'till they have had much Experience of it's Mischief, and seldom 'till they have found those kind of Proofs used against their own Relations, or Persons of the better Rank, whom they knew to be innocent.

This made that great and good Man doubtful; but he was in such Fears, and proceeded with such Caution, that he would not so much as sum up the Evidence, but left it to the Jury with Prayers, *That the great God of Heaven would direct their Hearts in that weighty matter.*

But Country People are wonderfully bent to make the worst of all Stories of Witchcraft; and having Sir Thomas Brown's Declaration about Denmark for their Encouragement, in half an Hour they brought them in Guilty upon all the thirteen several Indictments.

After this my Lord Chief Baron gave the Law it's Course, and they were condemned and died, declaring their Innocence. And for my Part, I cannot but believe their dying Words, and the strong Arguments of their Side, rather than the Presumptions and conjectural Proofs, that there were against them. I am much of the same Mind with the Gentlemen and Serjeant Keeling, who was afterwards Lord Chief Justice, and whose Judgment I cannot count inferior to Sir Thomas Brown's; and with the Alteration of a Word or two, I will conclude this Case with his Opinion, which he declared plainly in open Court; said he, *Admitting the Children were in truth bewitched,*
(I would

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(I would rather say, admitting, there was an Interposition of invisible Agents,) yet it could never be applied to the Prisoners, upon the Imagination only of the Persons afflicted, for if that might be allowed, no

Person whatsoever could be in Safety; for perhaps they might fancy another Person, who might be altogether innocent in such matters.

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Rathbone, &c.

Proceedings against JOHN RATHBONE, WILLIAM SAUNDERS, HENRY TUCKER, THOMAS FLINT, THOMAS EVANS, JOHN MILES, WILLIAM ESCOT and JOHN COLE, for High Treason, at the Old Bailey, Anno 1666. 18 CAR. II.

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The Charge.

THE Indictment charged the Prisoners with conspiring the Death of the King, and the Subversion of the Government; and as Overt Acts of their Treason, Evidence was given against them of a Design to surprise the Tower, murder Sir John Robinson the Lieutenant, General Monk and Sir John Brown: To have fired the City, seized on the Horse-Guards in their Quarters, and barricaded the Streets; and it was testified, that the Tower had been actually viewed by the Conspirators; and that it was agreed to pass the Moat in Boats, and scale the Walls. It appeared also on the Evidence, That there was a Council of the Great Ones that sat frequently in London, from whom issued

all Orders; which Council received their Directions from another in Holland, who sat with the States; and that the third of September was pitched on for the Attempt, as being found by Lilly's Almanack, and a Scheme erected for that Purpose, to be a *Lucky Day*; a Planet then ruling, which prognosticated the Down-fall of Monarchy. The Evidence against these Persons was very full and clear; and they were found guilty of High Treason, and suffered accordingly. And it is remarkable, that the Fire of London actually began on the Eve of the third of September, the very Day the Conspirators had agreed to set Fire to it, and take up Arms against the Government.

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Major Weir.

Proceedings against Major ——— WEIR, and JANE WEIR his Sister, for Witchcraft, Incest, Sodomy, &c. at Edinburgh, before Mr WILLIAM MURRAY, and Mr JOHN PRESTONE, Advocates, commissioned to try them, April, 1670. 22 CAR. II.

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22 Car. II.The Charge
against him.

THE Charge contained in the Libel preferred against the Prisoner, Major Weir, was of the following Tenor, viz.

Primo. That he enticed and attempted to defile his German Sister, *Jane Weir,*

when she was but ten Years old, or thereabout; and that he lay with her when she was but sixteen Years old, while they both dwelt in the Family with their Father, and afterwards had frequent Carnal Dealings with her in the House of *Wicket Shaw*

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Shaw, in her younger Years; and lastly, That after she was forty Years old, he lived in a State of Incest with her in his House at *Edinburgh*, where they dwelt together many Years.

Secundo. That he committed Incest with *Margaret Bourdon*, Daughter to *Mein*, his deceased Wife.

Tertiò. That he committed frequent Adulteries during the Life of his said Wife, both with married and unmarried Women; and particularly with *Bessy Weems* his Servant Maid, whom he kept in his House for the Space of twenty Years; during which time he lay with her as frequently and familiarly, as if she had been his Wife.

Quartò. That to his Fornications, Adulteries and Incests, he proceeded to add the unnatural Sin of Bestiality, in lying with Mares and Cows; particularly in polluting himself with a Mare, upon which he rode into the West Country, near *New-Mills*: All which Crimes particularized in the manner aforesaid, he acknowledged judicially at the Bar.

The Sum of *Jane* his Sister's Libel is reducible to these two Heads. *First*, To the Charge of Incest, which she committed with her Brother; And, *Secondly*, To the Charge of Sorcery and Witchcraft, but most especially of consulting Witches, Necromancers, and Devils; and yet more particularly for keeping and conversing with a familiar Spirit while she lived at *Dalkeith*, which used to spin extraordinary Quantities of Yarn for her in a shorter time, than three or four Women could have done the same. All which she judicially confessed in the Face of the Court.

Then they proceeded to swear the Witnesses which the Lord Advocate called for farther Probation against them both. Of these *John Oliphant*, *William Johnson* and *Archibald Hamilton*, *Baliffs*, i. e. *Aldermen* of *Edinburgh*, deposed, That on the *Monday* preceeding the Major's Arraignment, he did freely confess and declare unto them, That he had committed frequent Incests with his Sister *Jane*; divers Fornications and Adulteries with other Persons, and Bestiality with a Mare and a Cow. *Mr John Sinclair*, a *Conventicle Minister*, deposed, That the Day before his Tryal, he freely confessed to him, That he was guilty of Adultery, Incest and Bestiality; that his Sister had been often taken out of Bed from him. Whereupon asking him, if he had ever

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seen the Devil? He answered, *That he had felt him in the Dark*. But as to his Conversation with the Devil, the Depo-
nent might have declared more; for he had confessed to him and many others, particularly to the Lord Bishop of *Galloway* then Minister of *Edinburgh*, *That he had lain with the Devil in the Shape of a beautiful Woman*.

Margaret Weir, Wife to *Alexander Weir*, Bookseller in *Edinburgh*, testified, That when she was of the Age of twenty seven Years or thereabouts, she found the Major her Brother and her Sister *Jane*, lying together in the Barn at *Wicket Shaw*, and that they were both naked in the Bed together, and that she was above him, and that the Bed did shake, and that she heard some scandalous Language between them; in particular, that her Sister said, *She was confident she should prove with Child*. Furthermore she deposed, That *Catherine Cooper*, a Servant of the Major's, told her, That he had lain with *Margaret Bourdon* his Wife's Daughter; so that she would stay no longer in the House.

Anne, Wife of *James Simpson*, Bookbinder in *Edinburgh*, declared, That on the *Monday* preceeding, and that Day in the Morning he had confessed to her, That he had committed Incest with his Sister *Jane*, and *Margaret Bourdon* his Wife's Daughter; as likewise Bestiality with a Mare in the West Country; and that he had carnally conversed with his Maid-Servant *Bessy Weems*, for twenty two Years.

Mr Archibald Nisbet, Writer to the Signet, declared, That in the Year 51 or 52, it was reported in the Country, that the Pannel had committed Bestiality with a Mare near *New-Mills*, and that he heard it reported the same Day in which it was said he did the Fact. *Mr John Alexander* of *Leith* deposed the same, and said, He was then but Half a Mile from the Place.

After these Depositions, the Major being examined about his Act of Bestiality, declared, 'That a Gentleman having given him a Mare, he rode upon her into the West Country to see some Friends, and dealt carnally with her near *New-Mills*; and that a Woman saw him in the Act, and complained of him to *Mr John Nave*, the Minister of *New-Mills*; at whose Instance he was brought back to the Place by some Soldiers, but was there dismissed for want of farther Probation.' And farther

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The Charge
against his
Sister.

They are
both convicted
and executed.

ther being asked about the Time, he answered, 'That to the best of his Remembrance, it was when the Lords, Gentlemen and Heritors were taken by the English at Elliot.'

As for Probation against *Jane Weir*, the Lord Advocate insisted on her own Declaration, and all the Depositions in which, as a Party, she was involved. And being asked, if she knew any thing concerning the Correspondence that was said to be betwixt the Devil and her Brother, she declared, *That she had a long time been jealous of it, but was not certain; and that six or seven Years before she had found a Mark upon his Shoulder like that which is called the Devil's Mark, at which she was sore afraid.*

The Process being thus ended, the Jury did unanimously find the Major guilty of Incest with his Sister, and Beastiality with a Mare and a Cow, and found him guilty of Adultery and Fornication by a Plurality of Votes. They also unanimously brought in *Jane* guilty of Incest with her Brother; whereupon the deputed Judge sentenced him to be strangled at a Stake betwixt *Edinburgh* and *Leith* the Monday following the 11th of *April*, and his Body to be burnt to Ashes; and condemned her to be hanged on the Tuesday following in the *Grass-Market* at *Edinburgh*.

He was born and bred in the Western Parts of this Kingdom, which, as it appears from the preceding Narrative, hath ever been the most fanatical Part of our Country, and most disaffected to the King and the Church. There he was eagerly prepossessed with the Principles of Scism and Rebellion, which he shewed upon all Occasions, particularly in the Beginning of the late Rebellion, wherein he was a forward Stickler, and by his extraordinary Zeal for the Cause, raised himself to a greater Command in some Troop or Company, than Men of his mean Original use to arrive unto here. About the Year 1649, he had the great Trust of the Guards of this City committed unto him under the Quality of Major, and from that time to the Day of his infamous Death, was always called by the Name of Major *Weir*. He behaved himself in this Office with great Cruelty and Insolence towards the Loyal Party, being very active in discovering and apprehending the Cavaliers, and bringing them to be arraigned and tryed for their Lives. He used to insult and triumph

over them in their Miseries, and persecute them with all manner of Sarcasms and Reproaches, when they were led out like Victims to publick Execution, as many yet alive can testify to the World; in particular the barbarous Villain treated the Heroick Marquis of *Montrose* with all imaginable Insolence and Inhumanity, when he lay in Prison, keeping him in a Room in which was no other Light than that of a Candle and his lighted Tobacco, which he continually smoaked with him, tho' the Marquis had an Aversion to the Smell of it above any thing in the World: Nay he would even disturb him in his Devotions, making his very Calamities an Argument that God as well as Man had forsaken him; and calling him Dog, Atheist, Traytor, Apostate, Excommunicate Wretch, and many (more) such intolerable Names. This cruel manner after which he used to outrage the poor Royalists passed among the People for extraordinary Zeal, and made them consider him as a singular Worthy, whom God had raised up to support the Cause. He studied the Art of Dissimulation and Hypocrisy, always affecting a formal Gravity and Demureness in his Looks and Deportment, and employing a vast and tenacious Memory, which God had given him in getting without Book such Words and Phrases of the Holy Scriptures, as might serve best in all Companies to make him pass for an Holy and Gifted Man. He had acquired a particular Gracefulness in Whining and Sighing above any of the Sacred Clan, and had learned to deliver himself upon all serious Occasions in a far more ravishing Accent than any of their Ministers could attain unto. By these and other Hypocritical Arts he had got such a Name for Sanctity and Devotion, that happy was the Man with whom he would converse, and blessed was the Family in which he would vouchsafe to pray.

For he pretended to pray only in the Families of such as were Saints of the highest Form; insomuch that the Brethren and Sisters of these Precincts would strive who should have him to exercise in their Houses; and of those that lived at a greater Distance, some would come forty or fifty Miles to have the Happiness to hear him pray. He had indeed wonderful Fluency in extemporary Prayer; and what thro' Enthusiastical Phrases, and what thro' Extasies and Raptures, into which he would appear transported, he

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he made the amazed People presume, he was acted by the Spirit of God. Besides praying, he used to exhort and bless the Families in which he prayed, but he ne-

ver undertook to preach in them, for Fear of invading the Ministerial Province, which certainly would have offended the Kirk.

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Proceedings against JAMES Duke of Monmouth, for High Treason and Rebellion, 1685. 1 Jac. II. Comprehending the former Proceedings against him for the Share he had in the Rye-House Plot, in the Reign of King Charles II.

Duke of Monmouth.

1685.
1 Jac. II.
Attainted by Parliament.

A BILL being brought into the House of Commons of the 13th of June, to attaint the Duke of Monmouth of High Treason, passed both Houses and received the Royal Assent on the 16th of the same Month. Immediately after which the King published a Proclamation offering a Reward of 5000 l. to any Person who should take the Duke dead or alive: And the Duke's Army being defeated on the 6th of July, he was taken the next Day, carried up to London, and beheaded on Tower-Hill on the 17th of the same Month.

His History and Character.

James Duke of Monmouth was natural Son of King Charles II, by Mrs Lucy Barlow alias Walters. He was born at Rotterdam in Holland on the 9th of April 1649, during the King's Exile, and went by the Name of James Crofts till his Majesty's Restoration. He resided in the Court of the Queen-Mother at Paris for the most part, till he arrived at thirteen Years of Age, and was then brought over to England, where the King received him with the tenderest Marks of Affection; and he had an Apartment assigned him in the Palace of White-Hall, with an Equipage and Officers little Inferiour to those of a Legitimate Son of the Royal Family: The same Year he was created Duke of Orkney in Scotland, and afterwards Duke of Monmouth. In the Year 1665, he was made Master of the Horse, and married to the Lady Anne, Daughter and Heiress of Francis Earl of Buccleugh in Scotland, esteemed the best Fortune in Great Britain: He was afterwards made General of the Land-Forces, Captain of the Horse-Guards, Governour of Hull, Chief Justice in Eyre, South of

Trent, and in Right of his Lady was made Duke of Buccleugh and Lord Great Chamberlain of Scotland; his Person was of the Tallest, Beautiful and Majestick; he had a very graceful Mien, and was no less Brave than Amorous, the Darling both of his Father and the People, and not without a considerable share of Ambition; but had not Penetration enough to discern his true Interests, which made him too often the Property of designing Statesmen.

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In the Year 1672, he commanded six thousand of the British Auxillary Troops in the French Army, and contributed much to the Success against the Spaniard. At his return he being highly applauded for his Bravery and Conduct in that War, began to make a great Figure in the Court of England, and became extremely popular.

A Rebellion happening in Scotland in the Year 1679, the King sent down a Body of Troops under the Command of the Duke of Monmouth, who defeated the Malecontents amounting to 17000 Men at Bothwell Bridge on the 22d of June, and made 1200 of them Prisoners; among whom were several of the Murderers of the Archbishop of St Andrews, whom he caused to be executed with some few of the rest by Martial-Law.

The King being taken ill in the same Year, Shaftsbury and the English Malecontents, recommended the Duke of Monmouth for his Successor to their Friends, and engaged the Duke in the same Views; who being charmed with the neat Prospect of the Crown, made use of every popular Art to engage the People

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People in his Favour, if the King should die: Which his Majesty being acquainted with, *Monmouth* was removed from his Place of Captain-General, and ordered to leave the Kingdom; whereupon he embarked for *Holland*; and *Shaftsbury* soon, after was turned out of the Privy Council.

The Earl of *Mulgrave*, afterwards Duke of *Bucks*, relates, That no Person contributed more to *Monmouth's* Advancement at Court at first than the Duke of *York*: That his Royal Highness recommended him to the Post of Captain-General, as well to prevent *Schomberg's* possessing it, as out of Friendship to *Monmouth's* Wife, a Lady of Wit and Reputation, who had the Ambition of making her Husband considerable and the Address of succeeding in it, by using her Interest in so Friendly an Uncle, whose design *Mulgrave* believed was only to convert her: But whether this Familiarity of theirs was contrived, or only contrived at by the Duke of *Monmouth*, he could not determine. However this great Intimacy between the Duke of *York*, and his Nephew, according to *Mulgrave*, was broken by the Inconstancy of one of their Mistresses, and was the occasion of such a Division between them, as never ceased, till it cost one of them the Hazard of his Crown, and the other the Loss of his Life on the Scaffold: So great an Inconstancy, says that Noble Writer, there is in Court-Affairs, and such Ignorance in those who commonly write them, that they very gravely attribute to Prudence or Providence, what is often nothing else but Humour, Love, or Jealousy.

To proceed, the Duke of *Monmouth* returned to *England* again the latter end of the Year without his Majesty's Leave; though it was Midnight when he passed through the City of *London*, the Bells rung, and Bonfires were made by the People to testify their Joy, for it was generally believed that no Person could preserve them from Popery and all the Evils consequent upon it, but the Duke of *Monmouth*, whose Life and Fortune depending on the same bottom with theirs, they were taught would certainly stand by them and protect their Religion and Properties.

The Duke in the mean time did not think fit to go near the Court; but by the Direction of *Shaftsbury* his Tutor, made a Pompous Cavalcade through the City,

and several other Parts of the Kingdom, courting the People, and suggesting like another *Abolom*, that he pitied their wretched State, and was ready to defend them against the Tyranny and Oppressions of his Father and his Uncle; and in short, that he would be their Champion against Popery: But the boldest Stroke, and what alarmed the King most, was his going to the *King's Bench Bar*, with his Friends, *Shaftsbury*, *Russel* and *Cavendish*, and ten or a dozen more Noblemen and Persons of Distinction, to present the Duke of *York* as a Popish Recusant, in which however he was prevented by the Chief Justice's dismissing the Grand Jury sooner than was expected.

This Stratagem not succeeding, the Duke of *Monmouth's* Friends brought in a Bill the next Sessions of Parliament, for excluding his Royal Highness the Duke of *York* from the Crown; which passed the House of Commons, but was rejected by the Lords; Upon which Disappointment the Duke of *Monmouth* and his Friends entred into a Conspiracy to raise an Insurrection, and compel the King by force to exclude his Royal Highness the Duke of *York* from the Throne. And some of the Conspirators went so far as to form Schemes for taking away the King's Life, but this part of the Conspiracy the Duke of *Monmouth* is generally acquitted of. This Plot usually called the *Rye-House Plot*, from the Place where the Tragedy was to have been acted, being discovered, and several of the Conspirators apprehended and brought to Justice, the Duke of *Monmouth*, who absconded till he was upon the point of being out-lawed, thought fit to write to his Majesty, and endeavour to awaken his Tenderness for his once beloved Son.

In the first Letter he disclaims having any share in the Assassination; but begs Pardon, both of the King and the Duke, for the many things he had done, that had made them angry with him, but especially the Duke; Though it might be some Justification of himself, he said, that many People had made him believe, the Duke intended to destroy him: And as to the King, he protested all he had done was with an Intent to save his Majesty; as he would convince him, if he could be so happy to speak to him: He had that to say to him, that would settle his Majesty in quiet in his Kingdom, and the Duke after him; whom he intended to serve to the utmost of his Power, and desired

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and desired the Duke might be by, when he should speak to the King, and no Body else. Concluding in these Words, 'And now Sir I do swear to you, that from this time I will never displease you in any thing, but the whole Study of my Life shall be, to shew how truly Penitent I am for having done it, and how well I will deserve the Life you give me. And for the Duke, that he may have a more firm Confidence of the Service I intend to do him, I do here declare, *That I will never ask to see your Face more if ever I do any thing against him; which is the greatest Curse I can lay upon my self.*

Upon the Receipt of this Letter his Majesty wrote the Duke of Monmouth this short Answer.

'If the Duke of Monmouth desires to make himself capable of my Mercy, he must render himself to the Secretary, and resolve to tell me all he knows, resigning himself entirely to my Pleasure.' Whereupon Monmouth wrote his Majesty a second Letter, wherein he confesses, *He had been insensibly engaged in things of which the Consequence was not enough understood by him, and that he had been betrayed into very fatal mistakes; for which he had such Remorse, that could it be seen, he was assured would move his Majesty's Compassion; And humbly begged to be admitted to his Feet, to be disposed of as his Majesty should direct for the remainder of his Life: But begged that no Penalty might be inflicted on him that might lay a Stain upon his Innocent Children; that he might not undergo the Ignominy of a Tryal, or of being sent to the Tower.* These Matters, he said, he laid before his Majesty in the most submissive manner, and with an entire Resignation in what he should determine: Nor did he imagine he should receive his Majesty's Pardon, but by the Intercession of the Duke; whom he acknowledged he had offended, and was prepared to submit himself in the humblest manner, *not in an outward form, but with all the Sincerity in the World; That he was sensible how ill a Guide his own Will had been to him, and was resolved for the future to put it entirely into his Majesty's Hands: Concluding with these Words, 'Dear Sir be pleased to revive by a kind Answer, the most miserable disconsolate Creature now living.*

MONMOUTH.

The Duke of Monmouth surrendering himself to Secretary Jenkins the 24th of November, was introduced by him to the King and Duke of York: Of which Interview the following Notes were published by Authority, viz.

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25th Novembris 1683.

'Yesterday the Duke of Monmouth came and surrendered himself to Mr Secretary Jenkins, and desired to speak alone with the King and Duke, which was granted him: He first threw himself at his Majesty's Feet, *acknowledging his Guilt, and the share he had in the Conspiracy,* and asked his Pardon, and then confessed himself faulty to the Duke and asked his Pardon also; And assured him if he should survive his Majesty, that he would pay him all the Duty that became a Loyal Subject, and be the first that should draw his Sword for him, should there be occasion. He then desired his Majesty would not oblige him to be a Witness; and then gave an account of the whole Conspiracy, naming all those concerned in it, which were more than those that had already been mentioned by the several Witnesses. When he made an end of his Confession, his Majesty ordered him to be put into the Custody of a Serjeant at Arms; this Day admitted him to his Presence, and ordered a Stop to be put to the Outlawry, and promised him his Pardon: He farther added, *That Doctor Owen, Mead, Griffin, and all the considerable Non-conformist Ministers knew of the Conspiracy.*

Upon this Confession his Majesty declared in Council, he had received perfect Satisfaction; and ordered his Pardon to be dispatched: He was also pleased to indulge the Duke of Monmouth so far, as to promise he should not be obliged to give Evidence against any Man. However Monmouth's Pardon was no sooner sealed, but he associated with the same disaffected People again, and it was given out, *That the Duke of Monmouth had made no Confession, but on the contrary, had asserted the Innocence of some that had suffered.* Whereupon the King expostulated with Monmouth, and let him know that he expected some publick Testimony of his Confession, that might satisfy the whole Nation of the Truth of the Conspiracy, as well as himself and the Duke of York: Which the Duke of Monmouth

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mouth seemed to acknowledge very expedient, and readily signed the following Paper, viz.

‘ I have heard of some Reports of me, as if I should have lessened the late Plot, and gone about to Discredit the Evidence against those who died by Justice: Your Majesty and the Duke knew how ingenuously I have owned the late Conspiracy; and though I was not conscious of any Design against your Majesty’s Life, yet I lament the having had so great a Share in the other part of the said Conspiracy. Sir I have taken the Liberty to put this in Writing for my own Vindication, and I beseech you look forward, and endeavour to forget the Faults you have forgiven me: I will take care never to commit any more against you, or come within the Danger of being again misled from my Duty, but make it the Business of my Life, to deserve the Pardon your Majesty hath granted to your Dutiful,

MONMOUTH.

But some of the Duke’s Friends having flattered his Ambition again with Hopes of succeeding to the Crown, and setting aside his Uncle the Duke of York; while others upbraided him with meanness of Spirit and Ingratitude to those who had run such Hazards to serve him, (by signing a Paper which might be brought in Evidence against them:) He came to the King the 6th of December, and importunately demanded the Paper he had signed might be returned. To which the King answered, He would not keep it against his Will; that he might have no Pretence to say, he was forced to Write what he did, but bid him consider the Consequences of his obstinate Perseverance in that Demand, and gave him till the next Morning to deliberate on the matter. However he came the next Day, and insisting still, that his Majesty should return it; the King gave him the Paper, but at the same time banished him the Court (being the very Day Colonel Sidney was executed) and soon after the Duke of Monmouth embarked for Holland.

King James no sooner ascended the Throne, but the Duke of Monmouth and the Marquis of Argyle, concerted measures to make a Descent in England and Scotland about the same time, in expectation that the People of both Kingdoms would have risen unanimously and assisted

them in driving King James from his Throne. And under this persuasion the Marquis of Argyle ventured to land in Scotland, with a very inconsiderable Force in the beginning of May 1685. As the Duke of Monmouth, did afterwards at Lime in Dorsetshire, on the 6th of June, with a still more inconsiderable Force: The Marquis of Argyle assembled two or three thousand of his Tenants and Dependents on his landing; but the King’s Forces soon dispersed them, and the Marquis was made Prisoner on the 17th of June, and executed on the 30th of the same Month at Edinburgh.

The Duke of Monmouth who had promised the Earl of Argyle to land in the West of England, soon after he should be landed in Scotland, meeting with many Disappointments in his Preparations and contrary Winds in his Passage, did not arrive on the Coast of England till the 11th of June, having with him only a small Man of War and two Tenders, on Board of which were about 5000 small Arms, and fourscore Military Men; they who make the most of them say his Followers did not amount to an hundred and fifty: An inconsiderable Number to attempt the Conquest of the three Kingdoms, if he had not depended on a general Revolt in his Favour? With these he ventured on Shore at Lime a Port and Borough Town in Dorsetshire, and set up his Standard in the Market Place there without Opposition, and was immediately joined by several of the Townsfolk: Whereupon the Duke ordered a Paper to be read which he entitled, *The Declaration of James Duke of Monmouth, and the Noblemen, Gentlemen, and others now in Arms for the Defence and Vindication of the Protestant Religion, and the Laws, Rights and Privileges of England.* And herein they set forth, That all the Boundaries of the Government had of late been broken, and nothing left unattempted to turn this limited Monarchy into an absolute Tyranny; charging the King, whom they still stile the Duke of York, with the Burning of London, the Popish Plot, Justice Godfrey’s, and the Earl of Essex’s Murders, and even with Poisoning the late King: They Charge his Majesty also with seizing the Charters, and all the Mismanagement of the late Reign; and assert, That his declaring himself a Papist had rendered him incapable of the Crown; for which they appealed to a free Parliament;

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ment; suggesting, That the present Parliament were a packed Assembly of the Duke of York's Creatures, who ought not to be regarded as such: They declare, that they had been compelled to have recourse to Arms, as well for the vindicating their Religion and Laws, and rescuing their Country from Ruin and Destruction, as to revenge the late King's Death upon the Duke of York, &c. That the Duke of Monmouth was the legitimate Son of the late King, though he did not at present insist upon his Title, but should leave the Determination thereof to the Wisdom and Justice of a Parliament legally chosen, and acting with Freedom: And having invited all the Subjects of Great Britain, as well as all Protestant Princes and States, to join the Duke and the Earl of Argyle, they conclude in these Words; *Our Dependence and Trust is upon the Lord of Hosts, in whose Name we go forth, and to whom we commit our Cause, and refer the Decision of it in the Day of Battel. Now let us play the Men for our People, and for the Cities of our God; and the Lord do that which seemeth good unto him.*

The Duke having assembled about two thousand Foot, and three hundred Horse, within four Days after his Arrival at Lime, began his March on the 15th of June towards Axminster, a little Town about four Miles from thence: And discovering the Duke of Albemarle at the Head of four thousand of the Militia, bending his March to the same place, he used such Diligence that he possessed himself of the Town before Albemarle came up; And it was suspected that this would have brought on an Engagement; but it seems the Duke of Albemarle found so many of the Militia in Monmouth's Interest, that he thought it more prudent to decline fighting; Nor was he much in the wrong, for the succeeding Night several of his Men deserted over to the Rebels: And Monmouth finding he had little to apprehend from that Body, continued his March to Taunton-Dean in Somersetshire, where he arrived on the 18th. And having increased his Forces by this time to five or six thousand Men, it was resolved that he should take upon him the Stile and Title of King, and he was Proclaimed accordingly on the 20th of June by the Name of James II. Though this was contrary to his own Declaration, wherein he submitted his Title to the Judgment of the Parliament,

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and 'tis said contrary to his own Opinion; For he apprehended it would lose him a great many of his Republican Friends, and too soon discover the true Motives of his Expedition: But a Majority of his Followers, were positive for his taking the Regal Title upon him, imagining that if they fought under a King *de facto*, it would screen them from the Guilt, or at least the Punishment of High Treason: And thereupon he submitted to his being proclaimed King. But however that was, the Duke no sooner found himself invested with the Title, but he immediately began to Act as if he was really Sovereign of Great Britain, issuing three several Proclamations, by the first of which, he offered a Reward of 5000 *l.* to any Person that should bring him the Duke of York's Head, as he called the King: By the second he declared the Parliament a seditious Assembly, and required them to separate before the end of June, on Pain of being dealt with as Traytors: And by the third he required the Duke of Albemarle, who was advanced within six Miles of Taunton at the Head of the Militia of Devonshire, to lay down his Arms on pain of High Treason.

In the mean time the Duke of Somerset, Lord Lieutenant of that County, secured the City of Bath; the Duke of Beaufort, with the Militia of Gloucestershire possessed the City of Bristol, the Earl of Pembroke, with the Militia of Wiltshire, lay at Chippenham; And the Duke of Albemarle, with a flying Army formed out of the Militia in Devonshire, attended the Rebels Motions, cutting off their Provisions, and retarding their March which way soever they inclined; by possessing himself of the Passes that lay in their way: But with Orders not to venture a general Engagement till he should be reinforced by Regular Troops.

From Taunton-Dean the Duke of Monmouth advanced to Bridgewater, where his Declaration and Proclamations being read, he continued his March to Glassonbury, and from thence towards Bristol, of which he proposed to take Possession. But meeting with a Repulse at Canham Bridge about three Miles from Bristol, he altered his Mind and marched to the City of Bath which he Summoned to surrender. But his Summons being slighted and his undisciplined Troops not prepared to form a Siege, he withdrew and possessed himself of Frome, a large open Town, where

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where he received Advice, that his Friend *Argyle* was defeated, and a Body of regular Forces were upon their March from *London* into the *West*: Whereupon he retired in some Confusion to *Bridgewater*, whither he was followed by the King's Generals, the Earl of *Feverham*, the Lord *Churchil*, &c. with two thousand Foot, and seven hundred Horse and Dragoons, supported by the Militia of the Neighbouring Counties.

The Earl of *Feverham* took up his Head Quarters with the Horse at a Village called *Weston* about three Miles from *Bridgewater*, encamping his Foot on a fine Meadow called *Sedgmore* with a large Ditch in their Front, which had been thrown up for a Drain; There the Earl proposed to remain and straiten the Rebels Quarters, till he was reinforced by another Body of Troops that he expected: But *Monmouth* finding himself in a manner blocked up on every side by the regular Troops, or the Militia, his Men disheartened by the Retreat from *Bristol*, Provision growing scarce, and his Forces daily deserting him, while those of the King's increased, resolved to make one bold push for the Crown before his Circumstances grew worse: Accordingly he marched out of *Bridgewater* the 5th of *July* at Night, in hopes of surprizing the Earl of *Feverham*'s little Army in their Sleep; believing that in the Confusion and Disorder he should find them, his own new raised Men, animated by an Opinion that God fought for them, and the Righteousness of their Cause, might prove at least equal to those of the Enemy: But it seems the Earl had received Advice of the Rebels sallying out of *Bridgewater* at Night, and while the Duke marched with great Secrecy (as he thought) and drew up his Men on the fatal Meadow of *Sedgmore*, News was brought him that the King's Foot stood ready to receive him: However it being now too late to retreat, he encouraged his Men, who advanced Shouting and Hallowing, and charged the King's Foot very briskly; But not being supported by their Horse, who fled out of the Field as soon as the King's Cavalry appeared, the Rebels Foot were charged both in Flank and Rear by the King's Horse, and before four o'Clock in the Morning entirely defeated; About twelve hundred of the Rebels being killed upon the Spot, and near twice as many made Prisoners, the Duke of *Monmouth* with the Lord *Grey* his

General of the Horse, being fled out of the Field before the Battel was well over.

The Day after the Battel being the 7th of *July* 1685, the Duke of *Monmouth* was taken in a Ditch where he endeavoured to conceal himself. The Duke wrote to his Majesty in the most abject manner, when he was in Custody, endeavouring to move his Compassion, pretending an Abhorrence of what he had done, as he did on much the like occasion in the late Reign, when he was detected of being in the Conspiracy with *Sidney* and the rest. He also desired in the most pressing Terms, to be brought into his Majesty's Presence, that he might convince him of his Sincerity and Zeal for his Service. The King condescending to see him, the Duke repeated the Assurances he had given in his Letter, and again implored his Majesty's Mercy, and in order to obtain it, signed a Paper, acknowledging that the late King told him he was never married to his Mother; But the King apprehending him too dangerous and enterprizing a Rival, this being the second Attempt he made upon the Crown, suffered the late Act of Attainder to take place.

Mr *Echard* relates, That the Bishop of *Bath* and *Wells*, Doctor *Tennison* and Doctor *Hooper*, being sent to the Duke of *Monmouth* in the *Tower*, to prepare him for his Execution, they got him to own the King's Title to the Crown, and to declare in Writing, That the last King told him he was never married to his Mother; and by Word of Mouth to acknowledge his Invasion was a Sin, but could never get him to confess it a Rebellion. They got him likewise to own, That he and the Lady *Harriot Wentworth*, had lived in all points like Man and Wife, but they could not make him confess it was Adultery. He acknowledged, that he and his Dutches were married by the Law of the Land, and therefore his Children might inherit, if the King pleased; but he did not consider what he did when he married her. He confessed that he had lived many Years in all sorts of Debauchery; but said he had repented of it, and doubted not but God had forgiven him: He said, That since that time he had an Affection for the Lady *Harriot*, and prayed that if it were pleasing to God it might continue, otherwise that it might cease, and God heard his Prayer: The Affection did continue, therefore he doubted not but it was pleasing to God; and that this was

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was his Marriage; their Choice of one another being guided not by Lust, but by Judgment, upon due Consideration. They endeavoured to shew him the Falshood and Mischeivousness of this Enthusiastical Principle, the Bane of so many Souls in the late time of Confusion; but he told them, that it was his Opinion, and he was fully satisfied in it. After all he desired them to give him the Sacrament the next Morning, but they told him, they could not do it while he persisted in that Error and Sin. His Answer was, he was sorry for it; and likewise the next Morning he told them he had prayed, that if he was in an Error in the matter, God would convince him of it, but God had not convinced him, and therefore he believed it was no Error.

On July 15th, about ten in the Morning, he was led out of the Tower; having mounted the Scaffold and viewed the Executioner, he began with declaring, *That he died a Protestant of the Church of England.* The Divines attending told him, That he could not be so, if he did not own the Doctrine of the Church of England, in the Point of *Non-Resistance*, and if he persisted in his former Enthusiastick Persuasion. He said he could not help it, yet he approved the Doctrine of the Church in all other things. He then spoke to the People in Vindication of the Lady Harriot Wentworth, declaring she was a Woman of great Honour and Virtue, a Religious Godly Lady: Upon which they told him of his living in Adultery with her: He said, *No*; for these two Years last past, he had not lived in any Sin that he knew of, and that he had never wronged any Person, and that he was sure, when he died to go to God; and therefore he did not fear Death, which he said they might see in his Face. Then they prayed for him, and he kneeled down and joined with them; and in Conclusion they had a short Prayer for the King, at which he paused, but at last said, *Amen.* Rising up, he spoke to the Head's Man to see he did his Business well, and not to use him as he did the Lord Ruffel, to give him two or three Strokes; for if he did, he should not be able to lie still without turning. Then he gave the Executioner six Guineas, and four to one Marshall, a Servant of Sir Thomas Armstrong's, that attended him with the King's Leave, desiring Marshall to give them to the Executioner

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if he did his work well, and not otherwise. He had given to this Marshall over Night his Ring and Watch, and now he gave him his Case of Pick-Teeth for the Lady Harriot; in which were afterwards found some Scripture Expressions in the Nature of Charms or Amulets. Then undressing and preparing himself for the Block, the Divines in the mean time, used these and the like Ejaculations: *God accept your Repentance. God accept your imperfect Repentance. God accept your general Repentance.* Having laid himself down, and the Sign given, the Executioner gave a light Stroke; at which he looked him in the Face. And then he laid himself down again, when the Executioner gave him two Strokes more and then threw down his Axe, crying, *he could not finish his Work*, till being threatened by the Sheriff, and others there present, he took up the Axe again, and at two Strokes more cut off his Head.

The Duke was in the 36th Year of his Age when he came to this untimely end, a most Beautiful and Graceful Person, Generous and Affable; ever courting and insinuating himself into the lower Class of Men, whereby he became the Idol of the Populace. Never was Man more loved, and even adored by them: Of which the King and Court were so well apprized, that though the Militia were commanded by Noblemen and Gentlemen of unquestionable Loyalty, who might easily have suppressed the Duke at his first Landing, if they could have depended on the Bodies they commanded, it was thought advisable, not to venture an Engagement without regular Troops, which gave Monmouth an Opportunity of assembling seven or eight thousand Men before he met with any Opposition. After he was dead, the People could not be brought to believe it: They looked upon him to be invulnerable and even immortal: Sometimes it was given out that one like him was executed; at others, that it was but a Block or his Effigy that was beheaded, and expected to see him appear again every Day at the Head of a better Army than he had left: And the King looked upon his Deliverance from this formidable Rival to be so considerable, that he caused two Medals to be struck upon the Occasion.

The Duke
of Mon-
mouth's Ad-
herents.

*Proceedings against the Adherents of the Duke of
MONMOUTH, in the West of England, for High
Treason. Anno 1685. 1 JAC. II.*

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AFTER the Proceedings against the Duke of *Monmouth*, it may be proper to enquire into the Fate of his Adherents, especially when there are not any two Writers of those times which agree in the Number that were executed.

The only Tryal that was taken of those that were charged with the *Western* Rebellion, was that of Mrs *Lisle*, which may be met with in a former Collection: As to the rest who were most of them taken in Arms, the Proof was so clear and uncontestable, that their Friends, who have given us the Names, Circumstances, and dying Speeches of those that were executed, amounting to 239 in the whole, have not furnished us with the Defence made by any one of them. And indeed it appears that a great many of them did not think a Defence necessary, but gloried in the Action to the last, refusing Life upon that easy Condition of saying, *God bless the King*.

It is observable that all the Odium of these Executions fell upon the Lord Chief Justice *Jefferies*, and Colonel *Kirk*. But why Judge *Polexfen*, and the rest of the Commissioners of Oyer and Terminer, who concurred with *Jefferies* in these Judgments, should not come in for a Share in our Censures, is not easy to conceive, unless it be that *Polexfen* was afterwards one of King *William's* Judges, and the rest of them deemed no Enemies to the Revolution. The Lord *Churchil* (afterwards Duke of *Marlborough*) though the most Active of all the Officers in suppressing the *Western* Rebellion, appears also to be so much in Favour, that he has not incurred the least Censure on that Account; while poor Colonel *Kirk*, his inferior Officer, is loaded with Infamy and innumerable Stories raised of his Cruelty; particularly, That when thirty Men who had been condemned by *Jefferies* and his Associates, were to be hanged at *Taunton*, he sat at a Tavern

to see the Execution, and ordered them to be turned off by half Scores, drinking the King's Health at the first Execution, the Queen's at the second, and that of Judge *Jefferies* at the third: Though 'tis certain that the Sheriff, and not *Kirk*, had the Direction of these Civil Executions, and therefore it is not easy to conceive how *Kirk* comes to be censured for them: It is very probable indeed, that the Colonel was at *Taunton* at these Executions, and that he and his Officers were drinking at a Tavern there, but for the rest it is an Improvement so natural, that we need not go far to search for the Fathers of it.

It may be objected farther, That if the Barbarities of *Kirk*, of *Jefferies* and his Associates on the Bench were such as some represent them; it is strange that the Parliament which sat the following Winter, neither Lords nor Commons should take any other Notice of those Executions than to declare the Necessity of them; Nay, that *Kirk* and some of the Commissioners who sat as Judges in the *West* with *Jefferies*, should be preferred at the Revolution by King *William*. Let me add, That there may be many Instances given during the Tyranny of *Cromwel* and the Saints, of much greater Cruelties and more unjustifiable Proceedings than those in the *West*: Multitudes of Men having been put to Death during that Usurpation without any Trial: And others by pretended High Courts of Justice unknown to our Constitution, without having had so much as the Benefit of Tryals by Juries: Nor does there want Instances of as numerous Executions as those at the *Western* Assizes, in the Reigns of some of our Kings; for which however their Administration has not been censured, though People complain so much of *Jefferies*; who did not exceed his Commission probably, because he was made Lord Chancellor on the 28th of September, (upon the Death

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of the Lord Keeper North) being soon after his return from the *West*. If there were any rigorous Proceedings after that Rebellion, they ought rather to be ascribed to the Instructions the Court gave, than to the Severity of the Judges. But this must be said in behalf of that Administration, That in the first Insurrection in *Scotland*, they were exceeding Merciful, scarce any of the Rebels who were taken in Arms with *Argyle*, being put to Death there (by the concurrent Testimony of all Writers). And it was not till this second Insurrection, when the Court looked upon their *All* to be at Stake, that they fell upon these rigorous Proceedings; And they might apprehend them necessary to prevent farther Insurrections as other Princes have done, whose Names we reverence notwithstanding they have been guided by the like Politicks.

But farther, 'tis related, That *Kirk* pursuing part of the Rebels into *Taunton*, who fled thither after the Battel of *Sedgemoor*, ordered nineteen of them to be hanged; from whence it is inferred that King *James* was very Cruel, though it was impossible he could know any thing of the matter till long after it was done, *Taunton* being 120 Miles from *London*, where the King was at that time. But to enquire a little into the Barbarity of this Act; Is it against the Rules of War to take away the Life of a Rebel or Enemy who is a Prisoner at Discretion, and taken in the Enemy's Head Quarters; and, as this Case was probably, endeavouring to defend the Town against the King's Victorious Troops? Did not *Cromwel* when he took *Drogheda*, after the Garrison threw down their Arms and begged for Quarter, cut the Throats of 3000 *English*, and murder all the Defenceless Natives in the Place, Men, Women, and Children? Had the King's General served *Taunton* in this manner as a Terror to the rest of the Rebels, there might have been some Colour for their Outcries of Cruelty; at least a great deal more than for executing nineteen Soldiers, who had just before fled out of the Battel, and who were so far from shewing any remorse for their Treason and Rebellion, that some of them declared, If it was to do again, they would engage in the same Cause: Others would not acknowledge their Rebellion, though *Kirk*

offered them their Lives upon that Condition; Nay 'tis related that *Kirk* ordered one Person to be cut down twice or three times, and after each offered him his Life, if he would only acknowledge that he had done amiss; but he refused, and chose to be hanged outright. But to proceed, if *Kirk* was such a Monster of Cruelty for executing so small a Number of Rebels taken in Arms, how comes *Cromwel*'s Cruelty never to be censured by the Faction, who murdered his thousands and ten thousands in cold Blood?

Again, did not *Fairfax*, the Parliament's General, cause Sir *Charles Lucas*, and Sir *George Lisle*, two very great and good Men, to lay no more of them, to be Shot before the Walls of *Colchester* after they had surrendered, by his Sole Authority, only for defending that Town for their Sovereign, against the Forces of the Rump? And if this was agreeable to the Rules of War, why was *Kirk* to be censured any more than *Fairfax* or *Cromwel*?

But some pretend to give a farther Instance of *Kirk*'s cruel and brutish Temper. They tell us, that when a young Woman came to beg her Brother's Life, he promised it on Condition she would let him lye with her; which when she had consented to with much Reluctance, he hanged her Brother on the Sign Post of the same House before her Face, and laughed at her Credulity. But this Story has not only no Proof to support it, but it is told so many different Ways, as renders it exceedingly Suspicious: Some affirm, That it was a Daughter that petitioned for her Father; and others, that a Wife begged the Life of her Husband on these Terms; but give us neither the Names nor Dwellings of any of the Parties: And after all, if this *Kirk* was such a brute of a Man, it is strange that King *William* was so far from calling him to an Account at the Revolution, that he relied upon him as much as on any *English* Officer he had; and particularly employed him in relieving the Important Town of *London-Derry*, and raising the Siege of that Place.

I shall conclude this Head with a List of the Names of the Sufferers, and the Places where they suffered, made by one of their Friends; that the World may be no longer Imposed upon in this Article by Partial Writers.

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The Names and Number of the Sufferers in the West.

1685.
1 Jac. II.The Account of the
Persons executed in the
West.

Bath 6.

Walter Baker
Henry Body
Gerrard Bryant
Thomas Clotworthy
Thomas Collins
John Carter.

Philipsnorton 12.

Robert Cook
Edward Creaves
John Caswell
Thomas Hayward
John Hellier
Edward Beere
Henry Portridge
George Pether
Thomas Peirce
John Richards
John Staple
John Smith.

Froome 12.

Francis Smith
Samuel Vill *alias* Vile
Thomas Star
Philip Usher
Robert Beamant
William Clement
John Humphrey
George Hafty
Robert Man
Thomas Pearle
Lawrence Lott
Thomas Lott.

Bruton 3.

James Feildsen
Humphrey Braden
Richard Bole.

Wincanton 6.

John Howel
Richard Harvey
John Tucker
William Holland
Hugh Holland
Thomas Bowden

Shepton-Mallet 13.

Stephen Mallet
Joseph Smith
John Gilham, *Junior*
Giles Bramble
Richard Chinn
William Cruise
George Pavier
John Hildworth
John Ashwood
Thomas Smith
John Dorchester, *Senior*John Combe
John Groves.

Pensford 12.

Roger Cornelius
John Starr
Humphry Edwards
William Pierce
Arthur Sullway
George Adams
Henry Russell
George Knight
Robert Wine
William Clerk *alias* Click
Preston Bevis
Richard Finier.

Wrington 3.

Alexander Key
David Boyse
Joshua French.

Wells 8.

William Mead
Thomas Coade
Robert Doleman
Thomas Durston
John Shepherd
Abraham Bend
William Durston
William Plumley.

Wivelscomb 3.

William Ruscomb
Thomas Pierce
Robert Combe.

Tuton upon Mendip 2.

Peter France
William Watkins.

Chard 12.

Edward Foote
John Knight
William Williams
John Gervis
Humphry Hitchcock
William Godfrey
Abraham Pill
William Davy
Henry Easterbrook
James Dennett
Edward Warren
Simon Cross.

Crookern 10.

John Spore
Roger Burnoll
William Pether
James Ivory
Robert Hill
Nicholas Adams
Richard StephensRobert Halfwell
John Bushel
William Lashly.

Somerton 7.

William Gillet
Thomas Lissant
William Pocock
Christopher Stephens
George Cantick
Robert Allen
Joseph Kelloway.

Yeovil 8.

Francis Foxwell
George Pitcher
Bernard Devereax
Bernard Thatcher, *for concealing* Bover
William Johnson
Thomas Hurford
Edward Gillard
Oliver Powel.

Netberstoe 3.

Humphry Mitchel
Richard Culverell
Merrick Thomas.

Dunster 3.

Henry Lackwell
John Geanes
William Sully.

Dulverton 3.

John Basely
John Lloyd
Henry Thompson.

Bridgewater 12.

Robert Fraunces
Joshua Bellamy
William Moggeridge
John Hurman
Robert Roper
Richard Harris
Nicholas Stodgell
Richard Engram
John Trott
Roger Guppey
Roger Hore
Isaiah Davis.

Ratcliffe Hill at Bristol 6.

Richard Evans
John Tinckwell
Christopher Clerk
Edward Tippet
Philip Cumbridge
John Tucker *alias* Glover.

Ilminster 12.

Nicholas Collins *Senior*
Stephen Newman

Robert

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Robert Luckis
William Kitch
Thomas Burnard
William Wellen
John Parsons
Thomas Trocke
Robert Fawne
Western Hillary
John Burgen
Charles Speake.

Stogersley 2.

Hugh Ashley
John Herring.

Wellington 3.

Francis Priest
Philip Bovet
Robert Reed.

Southpetherton 3.

Cornelius Furford

John Parsons

Thomas Davis.

Porlock 2.

James Gale
Henry Edny.

Glastonbury 6.

John Hicks
Richard Pearce
Israel Briant
William Mead
James Pyes
John Broome.

Taunton 19.

Robert Perret
Abraham Ansley
Benjamin Hewling
Abraham Matthews
William Jenkins

Henry Lisle
John Dryer
John Hucker
Jonathan England
John Sharp
Peirce Murren
John Freake
John Savage
William Deverfon
John Williams
John Patrum
James Whitton
William Satchel
John Trickey

Langport 3.

Humphrey Peirce
Nicholas Venton
John Shellwood.

Axbridge 6.

Isaac Tripp
Thomas Burnell
Thomas Hillary
John Gill, *Senior*
Thomas Monday
John Butcher.

Cuthberton 2.

Richard Bovet
Thomas Blackmore.

Minehead 6.

John Jones, *alias* Evans
Hugh Starke
Francis Barlett
Peter Warren
Samuel Hawkins
Richard Sweet

Evilcbeſter 12.

Hugh Goodenough

Samuel Cox
William Somerton
John Masters
John Walrand
David Langwell
Osmond Barret
Matthew Crofs
Edward Burford
John Mortimer
John Stevens
Robert Townſend.

Stogummer 3.

George Hillard
John Lockſtone
Arthur Williams.

Caſtlecary 3.

Richard Aſh
Samuel Garniſh
Robert Hinde.

Milton-Port 2.

Archibald Johnſon
James Maxwel.

Heinſham 11.

Charles Chapman
Richard Bowden
Thomas Trock
Lewis Harris
Edward Halfwell
Howel Thomas
George Badol
Richard Evans
John Winter
Andrew Rownſden
John Phillelrey.

Suffered in all 239.

Proceedings against RICHARD BAXTER, Clerk, for *Baxter;*
a seditious Libel, at the King's-Bench Bar. Anno
1685. 1 JAC. II. (Taken by the Prisoner's Friends.)

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The Cafe.
ON the 28th of February 1685-6, Mr Baxter was committed to the King's-Bench Prison by the Lord Chief Justice Jeffrey's Warrant, for his *Paraphrase on the New-Testament*, printed a little before, which was called a scandalous and seditious Book against the Government. On the 6th of May, which was the first Day of Term, he appeared in Westminster-Hall, and an Information was ordered to be drawn up against him.

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May 14th, he pleaded Not Guilty to the Information. May 15th, he being much indisposed, moved, That he might have farther Time given him for his Tryal; but it was denied him; and Jeffreys crys out in a Passion: 'I will not give him 'a Minute's Time more to save his Life. 'We have had (*says he*) to do with o- 'ther Sort of Persons, but now we have 'a Saint to deal with; and I know how 'to deal with Saints as well as Sinners.

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Yonder (says he) stands Oates in the Pillory (as he actually did at that very time in the New-Palace-Yard), and he says he suffers for the Truth, and so says Baxter; But if Baxter did but stand on the other Side of the Pillory with him, I would say, two of the greatest Rogues and Rascals in the Kingdom stood there. On May 30th in the Afternoon, he was brought to his Tryal before the Lord Chief Justice Jeffreys at Guild-Hall. Sir Henry Ashburnt, who could not forsake his own and his Father's Friends stood by him all the while. Mr Baxter came first into Court, and with all the Marks of Serenity and Composure waited for the coming of the Lord Chief Justice, who appeared quickly after, with great Indignation in his Face. He no sooner sat down, than a short Cause was called and tryed; after which the Clerk began to read the Title of another Cause: *You Blockhead you* (says Jeffreys) *the next Cause is between Richard Baxter and the King*; upon which Mr Baxter's Cause was called. The Passages mentioned in the Information; were his Paraphrase on *Matth. v. 19. Mark iii. 6. Mark ix. 39. Mark xi. 31. Mark xii. 38, 39, 40. Luke x. 2. John xi. 57. and Acts xv. 2.* These Passages were picked out by Sir Roger L'Estrange, and some of his Companions: And a certain noted Clergyman (who shall be nameless) put into the Hands of his Enemies some Accusations out of *Rom. xiii. &c.* as against the King, to touch his Life, but no use was made of them. The great Charge was, 'That in these several Passages he reflected on the Prelates of the Church of England, and so was guilty of Sedition, &c.' The King's Council opened the Information at large with it's Aggravations. Mr Wallop, Mr Williams, Mr Rotberam, Mr Attwood, and Mr Phipps were Mr Baxter's Council, and had been see'd by Sir Henry Ashburnt.

Mr Wallop said, 'That he conceived the matter depending being a Point of Doctrine, it ought to be referred to the Bishop his Ordinary; but if not, he humbly conceived the Doctrine was innocent and justifiable, setting aside the Innuendos, for which there was no Colour; there being no Antecedent to refer them to (that is, no Bishop or Clergy of the Church of England named;) He said the Book accused, *i. e. the Comment on the New-Testament*, contained many eternal Truths: But they

who drew the Information, were the Libellers, in applying to the Prelates of the Church of England those severe things which were written concerning some Prelates, who deserved the Character he gave. My Lord (says he) I humbly conceive the Bishops Mr Baxter speaks of, as your Lordship if you have read Church-History must confess, were the Plagues of the Church & the World. Mr Wallop (says the Lord Chief Justice) I observe you are in all these dirty Causes; And were it not for you Gentlemen of the long Robe, who should have more Wit and Honesty than to support and hold up these factious Knaves by the Chin, we should not be at the Pass we are at. My Lord (says Mr Wallop) I humbly conceive, that the Passages accused [are] natural Deductions from the Text. You humbly conceive (says Jeffreys) and I humbly conceive; swear him, swear him. My Lord (saith he) under favour, I am Council for the Defendant; and if I understand either *Latin* or *English*, the Information now brought against Mr Baxter upon so slight a Ground, is a greater Reflection upon the Church of England, than any thing contained in the Book he's accused for. Says Jeffreys to him; Sometimes you humbly conceive, and sometimes you are very positive: You talk of your Skill in Church-History, and of your understanding *Latin* and *English*; I think I understand something of them as well as you; but in short must tell you, that if you don't understand your Duty better, I shall teach it you. Upon which Mr Wallop sat down.

Mr Rotberam urged, 'That if Mr Baxter's Book had sharp Reflections upon the Church of Rome by Name, but spake well of the Prelates of the Church of England, it was to be presumed, that the sharp Reflections were intended only against the Prelates of the Church of Rome.' The Lord Chief Justice said, 'Baxter was an Enemy to the Name and Thing, the Office and Persons of Bishops.' Rotberam added, 'That Mr Baxter frequently attended Divine Service, went to the Sacrament, and persuaded others to do so too, as was certainly and publicly known; and had in the very Book so charged, spoken very moderately and honourably of the Bishops of the Church of

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‘of England.’ — Mr Baxter added, ‘My Lord I have been so moderate with Respect to the Church of England, that I have incurred the Censure of many of the Dissenters upon that Account.’ — ‘Baxter for Bishops (saith Jeffreys) that’s a merry Conceit indeed! turn to it turn, to it.’ — Upon this Rotberam turned to a Place, where ’tis said, *That great Respect is due to those truly called to be Bishops among us; or to that Purpose.* — ‘Ay (says Jeffreys) this is your Presbyterian Cant, Truly called to be Bishops; that is himself, and such Rascals called to be Bishops of Kidderminster, and other such like Places; Bishops set apart by such factious snivelling Presbyterians as himself; a Kidderminster Bishop he means, according to the saying of a late learned Author; *And every Parish shall maintain a Tythe-Pig Metropolitan.*’ Mr Baxter beginning to speak again; saith Jeffreys to him; ‘Richard, Richard, do’st thou think we’ll hear thee poison the Court: Richard, thou’rt an old Fellow, an old Knave; thou’st written Books enough to load a Cart; every one is as full of Sedition (I might say Treason) as an Egg is full of Meat: Had’st thou been whipt out of thy writting Trade forty Years ago, it had been happy. Thou pretendest to be a Preacher of the Gospel of Peace, and thou hast one Foot in the Grave; ’tis time for thee to begin to think what Account thou intendest to give: But leave thee to thyself, and I see thou wilt go on as thou has began; but by the Grace of God I’ll look after thee; I know thou hast a mighty Party, and I see a great many of the Brotherhood in Corners, waiting to see what will become of their mighty Don; and a Doctor of the Party (looking to Doctor Bates) at your Elbow; but by the Grace of Almighty God, I will crush you all.’

Mr Rotberam sitting down, Mr Atwood began to shew, That not one of the Passages mentioned in the Information ought to be strained to that Sense, which was put upon them by the *Innuendos*; they being more natural when taken in a milder Sense; nor could any one of them be applied to the Prelates of the Church of England, without a very forced Constitution: To evidence this, he would have read some of the Text; but Jeffreys cried out, ‘You shan’t draw me into a Conventicle with your

Annotations, nor your snivelling Parson neither.’ —

‘My Lord (says Mr Atwood) I conceive this to be expressly within *Rofwel’s* Case, lately before your Lordship.’ — ‘You conceive (saith Jeffreys) you conceive amiss; it is not.’ ‘My Lord (saith Atwood) that I may use the best Authority, permit me to repeat your Lordship’s own Words in that Case.’ — ‘No, you shan’t (says he) you need not speak, for you are an Author already, though you speak and write impertinently.’ — Says Atwood, ‘I can’t help that, my Lord, if my Talent be no better; but it is my Duty to do my best for my Client.’ — Jeffreys thereupon went on, inveighing against what Atwood had published; and Atwood justified it to be in Defence of the English Constitution; declaring that he never disowned any thing he had written. Jeffreys several times ordered him to sit down, but he still went on. ‘My Lord (says he) I have Matters of Law to offer for my Client; and he proceeded to cite several Cases, wherein it had been adjudged, that Words ought to be taken in the milder Sense, and not in the strained, by *Innuendos*. ‘Well (says Jeffreys when he had done) you have had your Say.’

Mr Williams and Mr Phipps said nothing; for they saw it was to no purpose. At length says Mr Baxter himself; ‘My Lord I think I can clearly answer all that is laid to my Charge, and I shall do it briefly, the Sum is contained in these few Papers, to which I shall add a little by Testimony.’ — But he would not hear a Word: At length the Chief Justice summed up the matter in a long and fullsome Harangue.

‘Tis notoriously known (says he) there has been a Design to ruin the King and Nation; the old Game has been renewed, and this has been the main Incendiary: He’s as modest now as can be, but Time was, when no Man was so ready at, *Bind your Kings in Chains, and your Nobles in Fetters of Iron*; and, *To your Tents, O Israel!* Gentlemen, for God’s Sake, don’t let us be gulled twice in an Age, &c.’ — And when he concluded, he told the Jury, ‘That if they in their Conscience believed he meant the Bishops and Clergy of the Church of England, in the Passages which the Information referred to, they must find him Guilty; and he could mean

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'mean no Men else; if not, they must
'find him *Not Guilty*.' —

When he had done, says Mr *Baxter*
to him; 'Does your Lordship think any
'Jury will pretend to pass a Verdict upon
'me upon such a Tryal?' 'I'll warrant
'you Mr *Baxter*, (says he) don't you
'trouble yourself about that.'

Baxter con-
victed.

The Jury immediately laid their Heads
together at the Bar, and found him
Guilty.

He had subpœna'd several Clergymen,
who had appeared in Court, but were of
no use to him through the Violence of
the Chief Justice.

The Tryal being over, Sir *Henry Ash-
hurst* led Mr *Baxter* through the Crowd,
(I mention it to his Honour, says Bishop
Kennet) and conveyed him away in his
Coach. On June 29. following, he had
Judgment given against him; he was fin'd
five hundred Marks; to lie in Prison 'till
he paid it, and be bound to his good Be-
haviour for seven Years.

Mr *Baxter* afterwards obtained the
King's Pardon, by the Mediation of the
Lord *Powis*. His Fine was remitted;
and on *Wednesday, November 24*, Sir *Sam-
uel Astley* sent his Warrant to the Keeper
of the King's-Bench Prison to discharge
him; but he gave Sureties for his good
Behaviour; His Majesty declaring (for
his Satisfaction) That it should not in
him be interpreted a Breach of the good
Behaviour for him to reside in *London*,
which was not allowable according to
the *Oxford Act*: And this was entred
upon his Bail-Piece, i. e. the Parchment
in which his Bail was given. Notwith-
standing this, he continued some time
after in the Rules; and on *February 28*,
following, removed to a House he took
in *Charter-House-Yard*, where he preach-
ed to a separate Congregation without
Interruption as long as he lived; his
Death happening some Years after the
Revolution.

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He is pardon-
ed.

And preached
many Years
afterwards.

Burroughs.

Proceedings against **GEORGE BURROUGHS**,
Clerk, for *Witchcraft*; before Lieutenant Governor
STOUGHTON, Major **SALTONSTAL**, Major
RICHARDS, Major **GIDNEY**, Mr **WAIT**
WINTHROP, Captain **SEWALL**, and Mr **SER-
JEANT**. Anno 1692. 4 W. and M.

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The Charge
against him.

THE Indictment set forth, 'That
'George *Burroughs* late of *Fal-
mouth*, in the Province of the *Massa-
chuset-Bay* in *New-England*, Clerk, the
'9th Day of *May*, in the fourth Year of
'the Reign of our Sovereign Lord and La-
'dy *William* and *Mary*, by the Grace of
'God of *England*, *Scotland*, *France* and
'*Ireland* King and Queen, Defenders of
'the Faith, &c and divers other Days and
'Times, as well before as after, certain
'detestable Arts called *Witchcrafts*, and
'Sorceries, wickedly and feloniously hath
'used, practised and exercised at, and
'within the Township of *Salem*, in the
'County of *Essex* aforesaid, in, upon, and
'against one *Mary Walcott* of *Salem* Vil-
'lage in the County of *Essex*, single Wo-
'man; by which said wicked Arts, the

'said *Mary Walcott* the 9th of *May*, in
'the fourth Year aforesaid, and divers o-
'ther Days and Times, as well before as
'after, was, and is tortured, afflicted, pin-
'ned, consumed, wasted and tormented,
'against the Peace of our Sovereign Lord
'and Lady the King and Queen, and a-
'gainst the Form of the Statute in that
'Case made and provided.'

There was a second Indictment prefer-
red against the Prisoner of the like Form,
for afflicting *Elizabeth Hubbard*.

A Third Indictment, for afflicting *Mer-
cy Lewis*; And,

A Fourth Indictment, for afflicting *Anne Putnam*. Four Indict-
ments.

To all which Indictments the Prisoner
pleaded *Not Guilty*; whereupon the Coun-
cil for the King proceeded to open the se-
veral

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veral Indictments, and produce their Evidence.

Eight confessing Witches deposed, That the Prisoner *George Burroughs* was a principal Actor at their Hellish Rendezvous, and had the Promise of being a King in Satan's Kingdom, then going to be erected.

The bewitched or afflicted Persons unanimously charged the Spectre of the Prisoner to have a Share in their Torments; *one of them said,* That in her Agonies, a little black-haired Man came to her, saying, his Name was *B* —, and bid her set her Hand to a Book which he shewed her, bragging, That he was a Conjuror above the ordinary Rank of Witches, that he often persecuted her with the Offer of that Book, saying, she would be well, and fear no body, if she would but sign it, and that he inflicted cruel Pains and Hurts upon her, because of her denying so to do.

Others of them testified, That in their Torments the Prisoner tempted them to go to a Sacrament, to which they perceived him with the Sound of a Trumpet summoning other Witches, who quickly after the Sound, came from all Quarters to the Rendezvous: *One of them falling into a kind of Trance, afterwards affirmed,* That the Prisoner had carried her unto the Top of a very high Mountain, where he shewed her mighty and glorious Kingdoms; and said he would give them all to her, if she should write in his Book, but she refused.

Several of the Bewitched declared, That they had been troubled with the Apparitions of two Women, who said they had been the Prisoner's Wives, and that he had been the Death of them; and that the Magistrates must be told of it; and if he denied it upon his Tryal, they did not know but that they should appear in Court. — Now while he was upon his Tryal one of the bewitched Persons was cast into an Horror at the Ghosts of the Prisoner's two Wives then appearing before him, and crying out for Vengeance against him; hereupon several of the bewitched were successively called in, who all, not knowing what the former had seen and said, concurred in the Horror of the Apparition, which they affirmed the Prisoner had before his Eyes; but he utterly denied that he discerned any thing of it.

It cost the Court a great deal of Trouble to hear the Testimony of the Afflicted;

for when they were going to give in their Evidence, they would be taken with Fits which hindred them from speaking a considerable Time. The Chief Judge asked the Prisoner, *Who he thought hindred these Witnesses from giving in their Testimonies?* And he answered; *he supposed it was the Devil.* The Judge replied; *How comes the Devil so loth to have any Testimony born against you?* Which cast him into a very great Confusion.

The confessing Witches testified, That the Prisoner had been at Witch-Meetings with them, and had seduced and compelled them to the Snares of Witchcraft; that he promised them fine Cloths for doing it; that he brought Poppets to them, and Thorns to stick into those Poppets for the afflicting other People; and that he exhorted them to bewitch all *Salem* Village, but to do it gradually.

But besides the Testimonies of the afflicted, several Persons of Credit and Honour appeared in Court, and witnessed, That tho' the Prisoner was but a puny Man, yet he had done Things beyond the Strength of a Giant; that he made nothing of taking up a Gun of about seven Foot Barrel behind the Lock with one Hand, and holding it out at Arms End. The Prisoner in his Vindication said, 'That there was 'an *Indian* in the Company that did the 'same thing.' But the Court supposed the black Man might be the Person that gave him that Assistance. *There were two Witnesses that swore,* That with only putting the Fore-finger of his right Hand into the Muzzel of a Fowling Piece of about six or seven Foot Barrel, he lifted it up and held it out at Arms-End. *Another testified,* That he made nothing of taking up whole Barrels filled with Melasses or Cyder in very disadvantageous Postures, and carrying them through the difficultest Places out of a Canoe to the Shore.

Others testified, That he had been a cruel Husband to his Wives; that he used all means to make them write, sign, seal, and swear a Covenant never to reveal any of his Secrets; and that his Wives had often complained to their Neighbourhood of their House being troubled with evil Spirits.

Mr Ruck, Brother-in-Law to the Prisoner, testified, That *Mr Burroughs* and his Wife going out with him two or three Miles to gather Straw-berries, he with *Burroughs's* Wife rid home softly to keep Company with the Prisoner, who was on

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Foot; but the Prisoner stepped aside a little into the Bushes, whereupon they halted, and hallowed for him, but he not making them any Answer, they went homeward with a quickned Pace, not expecting to see him in a considerable time; but when they were near home, to their Astonishment, they found him on Foot with them with a Basket of Straw-berries; the Prisoner immediately chid his Wife for what she had said of him to her Brother on the Road; which when they wondered at, he said, "He knew their Thoughts." Ruck replied; "That was more than the Devil himself knew;" but the Prisoner answered; "My God makes known your Thoughts to me." The Prisoner making no Reply to this worth considering, Doctor, Mather says, "The Court were of Opinion, that he then stepped aside only that by the Assistance of the Black Man he might put on his Invisibilty, and in that fascinating Mist gratify his own jealous Humour to hear what they said of him."

The Prisoner, it is said, made but a weak Defence, full of Contradictions and Falschoods, reflecting on the Reputation of some of the Witnesses; he also delivered in a Paper to the Jury, wherein he endeavoured to prove, "That there neither are, nor ever were Witches that having made a Compact with the Devil, can send a Devil to torment other People at a Distance." But notwithstanding this, or any thing else he could say for himself, the Jury brought him in Guilty. When Sentence of Death was passed on him, he denied again what the Witnesses had all swore against him; but added, "That he did not so much blame the Judges and Jury for condemning him, as the false Witnesses that brought him to his Death."

Burroughs
condemned.

Neal's Re-
marks on the
Tryal.

Mr Neal, who transcribed this Tryal from Dr Mather's *Wonders of the Invisible World*, says; "I can't forbear making one Remark upon this, as well as upon all the Tryals that Doctor Cotton Mather has published to the World on this Occasion, that when he has given us the Depositions of the Witnesses against the Prisoners at large, he passes over their Defence in such general Words as these; *They said nothing worth considering: Their Discourse was full of Tergiversations and Contradictions: They were confounded and their Countenance fell, &c.* whereby his Reader is left in the Dark, and rendred incapable of judging of the

Merits of the. If the Cause Defence of the Prisoners was so weak and confused as the Doctor represents, it had been for the Advantage of the Court to have exposed it at large to the World; but if not, 'tis very hard that it should be smothered.

But upon such Evidence as this, 28 Persons received Sentence of Death, of which 19 were executed, and one (namely) Giles Cory was pressed to Death.

Much the major part, if not all the Confessions of the penitent Witches (as they were called) were extorted from them, purely with the View of saving their Lives; hence it was, that the Husbands and Children of some upon their bended Knees have prevailed with them to confess every thing that was laid to their Charge; others have been wearied out with long and tedious Examinations before private Persons for many Hours together, 'till they yielded to any thing: The Question being then asked; *Were you at such a Witch-Meeting? Or have you signed the Devil's Book?* If they replied *Yes*, the whole was drawn out into the Form of a Confession, That this was really the Case, will appear by the following Certificate, signed by the Hands of half a dozen honest Women, whose Consciences would not suffer them to disguise the Truth any longer.

"We whose Names are underwritten, Inhabitants of Andover; whereas that horrible and tremendous Judgment beginning at Salem Village, in the Year 1692, by some called *Witchcraft*, first breaking forth at Mr Paris's House, several young Persons being seemingly afflicted, did accuse several Persons for afflicting them, and many there believing it to be so, we being informed, That if a Person were sick, the afflicted Persons could tell what, or who was the Cause of that Sicknefs; Joseph Ballard of Andover his Wife being sick at the same time, he either from himself, or the Advice of others, fetched two of the Persons, called, *The afflicted Persons*, from Salem Village to Andover, which was the beginning of that dreadful Calamity that beset us in Andover; and the Authority in Andover believing the said Accusations to be true, sent for the said Persons to come together to the Meeting-House in Andover (the afflicted Persons being there;) after Mr Bernard had been at Prayer, we were blind-folded, and our Hands were laid upon the af-
flicted

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" afflicted Persons, they being in their Fits,
" and falling into these Fits at our com-
" ing into their Presence, as they said:
" Some led us, and laid our Hands on
" them, and then they said, they were
" well, and that we were guilty of afflic-
" ting them; whereupon we were all
" seized as Prisoners by a Warrant from
" the Justice of Peace, and forthwith
" carried to *Salem*; and by reason of that
" sudden Surprisal, we knowing our-
" selves altogether innocent of that Crime,
" we were all exceedingly astonished and
" amazed, and consternated, and affrighted
" out of our Reason; and our dearest
" Relations seeing us in that dreadful
" Condition, and knowing our great Dan-
" ger, apprehending that there was no
" other way to save our Lives, as the Case
" was then circumstantiated, but by con-
" fessing ourselves to be such and such
" Persons, as the Afflicted repre-
" sented us to be, they, out of tender
" Love and Pity, persuaded us to confess
" what we did confess; and indeed that
" Confession that is said we made, was no
" other than what was suggested to us by
" some Gentlemen, they telling us, that
" we were Witches, and they knew it,
" and we knew it, and they knew that
" we knew it; which made us think
" we were so: And our Understanding,
" and our Reason, and our Faculties being
" almost gone, we were not capable of
" judging of our Condition; as also the
" hard Measures they used with us, ren-
" dered us incapable of making our De-
" fence: But we said any thing and e-
" very thing they desired; and most of
" what we said was but in effect a con-
" senting to what they said. Sometime
" after, when we were better composed,
" they telling of us what we had confessed,
" we did profess, that we were innocent
" and ignorant of such Things; and we
" hearing that *Samuel Wardwell*, who had
" renounced his Confession, was condem-
" ned and executed, some of us were told,
" that we were going after *Wardwell*.

Mary Oswood.

Abigail Baker.

Mary Tiler.

Sarah Wilson.

Deliverance Dane.

Hannah Tiler.

If this Confession had been made a little sooner, while the Spectral Evidence was in Repute, it had cost the Confessors their Lives; for 'tis impossible to express the blind Fury and Zeal of the People against the Prisoners, who believed every thing the Afflicted said, and disbelieved

every thing the Accused offered in their own Vindication.

The Prisoner *Burroughs* had been formerly Minister at *Salem*, but some Differences arising between and him his People, he left them and retired to *Falmouth*; which perhaps might be one Reason of his being fixed upon by these *Salemites* for a Wizard. Doctor *Mather* says, he was a puny Man; but Mr *Calef* says, that his Contemporaries at School during his Minority could have testified, That his Strength was then as much superior to theirs, as ever it was discovered to be since. Upon the Day of Execution he was carried with the others in a Cart thro' the Streets of *Salem* to the Gallows: When he was upon the Ladder, he made a Speech for the Clearing of his Innocency, with such solemn and serious Expressions, as were to the Admiration of all present: His Prayer (which he concluded by repeating the Lord's Prayer) was so well expressed, and uttered with such Composure and Fervency of Spirit, as drew Tears from the Spectators; inso-much that some were afraid they would hinder the Execution: But the Accusers said the Black Man stood by and dictated to him. When he was cut down, he was dragged by the Halter to a Hole or Grave between the Rocks about two Foot deep; his Shirt and Breeches being pull'd off, and an old Pair of Trousers put on in their Room, he was tumbled in with *Willard* and *Carrier*: one of his Hands and his Chin, and a Foot of another of them being left uncovered.

Things went on in their old Channel (continues Mr *Neal*) 'till the afflicted over-acted their Parts, so far as to accuse some of the nearest Relations of Doctor *Increase Mather*, and of the Governour himself. It was time then to make a stand. Accordingly we find the very next Sessions, which was 3, Jan. 1692-3, when fifty six Bills were preferred against Persons for Witchcraft, the Grand Jury brought in thirty *Ignoramus*; and of the remaining twenty six, the Petty Jury convicted but three, whom the Governor pardoned: Nay the People's Eyes were so far opened by this time, that they would not convict People upon their own Confessions; for when *Mary Wyatt's* Confession was produced as Evidence against her, the Grand Jury would not accept it; but looking upon her as a distempered Person, brought in the Bill *Ignoramus*;

and

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The Behavi-
our of Mr
Burroughs at
his Execu-
tion.

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and tho' the Court sent them out a second time, they returned again with the same Verdict.

And indeed all the Confessions that were made seem to be either the Effects of a distempered Brain, or extorted from Persons to save their Lives.

Besides the Blood spilt upon this Occasion (says the same Writer) several Persons and Families were ruined in their Estates and Reputations, partly by long Imprisonment, and partly by the Avarice of the Officers who took Possession of their Houses in their Absence. And tho' I am fully satisfied, that the Zeal of the Government in this Affair proceeded from their Regard to the Glory of God, yet I must say, that the Magistrates were too partial in their Behaviour towards the Accused; and that Sir *William Phipps* himself treated them with too much Severity, by ordering them to be laid in Irons, and countenancing the popular Cry against them.

The whole Country were by Degrees made sensible of their Mistake, and most of the Actors in this Tragedy repented the Share they had in it. One of the honourable Judges that sat on the Bench at these Tryals on a Fast Day, in a full Assembly at the *South-Meeting* in *Boston*, delivered in a Paper to be read to all the People, acknowledging his having fallen into some Errors in the Tryals at *Salem*, and begging the Prayers of the Congregation, that the Guilt of such Miscarriages might not be imputed to the Country in general, or to him and his Family in particular: And while this Paper was reading, he stood up in the View of the whole Assembly.

The Jury likewise published a Paper signed with their own hands in the following Words.

' We whose Names are underwritten, being in the Year 1692, called to serve as Jurors in Court at *Salem*, on Tryal of many who were by some suspected of doing Acts of Witchcraft upon the Bodies of sundry Persons:

' We confess that we ourselves were not capable to understand, nor able to withstand the mysterious Delusions of the Powers of Darkness, and Prince of the Air; but were for want of Knowledge in ourselves, and better Information from others, prevailed with to take up with such Evidence against the Accused, as on farther Consideration and farther In-

formation, we justly fear, was insufficient for the touching the Lives of any, *Deut. xvii. 6.* whereby we fear we have been Instrumental with others, though ignorantly and unwillingly, to bring upon ourselves and this People of the Lord, the Guilt of innocent Blood, which Sin the Lord saith in Scripture, he would not pardon. 2. *Kings, xxiv. 4.* That is, we suppose, in regard of his temporal Judgments; We do therefore hereby signify to all in general, and to the surviving Sufferers in especial, our deep Sense of, and Sorrow for our Errors in acting on such Evidence, to the condemning of any Person.

' And do hereby acknowledge, that we justly fear that we were sadly deluded and mistaken; for which we are much disquieted and distressed in our Minds; and do therefore humbly beg Forgiveness, first of God, for Christ's Sake for this our Error; and pray, that God would not impute the Guilt of it to ourselves nor others; and we also pray, that we may be considered candidly and aright by the living Sufferers, as being then under the Power of a strong and general Delusion, utterly unacquainted with, and not experienced in matters of that Nature.

' We do heartily ask Forgiveness of you all whom we have justly offended; and do declare according to our present Minds, we would none of us do such things again for the whole World; praying you to accept of this in way of Satisfaction for our Offence; and that you would bless the Inheritance of the Lord, that he may be intreated for the Land.'

Thomas Fisk, Foreman.
William Fisk.

John Batcheler,
Thomas Fisk, Junior.

John Dane.
Joseph Evelitt.
Thomas Perly, Senior.

John Pebody.
Thomas Perkins.

Samuel Sayer.
Andrew Elliot.
Henry Herrick, Senior.

And Doctor *C. Mather*, who writ the forementioned Tryals, has since declared it as his Opinion, That things were carried too far, as appears to him: 1. From the great Number of Persons accused.
2. From

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2. From the Quality of the Persons accused, some of which were Persons of blameless and holy Lives. 3. From the Number of the Afflicted, which increased to about fifty: This (says he) gave just Ground to suspect some Mistake. 4. From the Execution of the Prisoners, not one of which confessed their Guilt at their Death; though several of them were Persons of good Knowledge, of sober Lives, and dyed in a serious affecting manner. And as for the Confession (says he) we had no Experience whether they would abide by their Confessions, when they came to die, they being all reprieved and pardoned. 5. Because when the Prosecution ceased, the Afflicted grew presently well. The Accused are generally quiet, and we have had no Disturbance since that time for these five Years.

The Doctor adds farther, that the Proceedings at *Salem* were owing to some mistaken Principles; as that *Satan* cannot assume the Shape of an innocent Person, and in that Shape do Mischief to the Bodies and Estates of Mankind; That when he does Mischief to Persons in their Bodies or Estates, it is most commonly by the Instrumentality of our Neighbour some Witch in Covenant with the Devil; and that when the Party suspected looks upon the Parties supposed to be bewitched, and they thereupon fall into a Fit, it is a Proof of such a Covenant, &c.

Thus in about fifteen Months Time, ended an Affair, which not only confounded the Minds of the good People of *New-England*, but struck all *Europe* with Surprise and Astonishment: Nay, the *Indians* themselves improved it to the Disadvantage of the *Protestant* Religion; For one of the *French Indians* in Conversation with Captain *Hill* at *Saco-Port* told him, that the *French* Ministers were certainly better than the *English*; for before the *French* came among them, there were a great many Witches among the *Indians*, but now there were none; and there were many Witches among the *English* Ministers, as *Burroughs*, who was hanged for it.

I have often wondered, that no publick Notice was ever taken of the afflicted Persons, or confessing Witches. If the Agitations of the Afflicted were voluntary and artful, the Blood of the Innocent certainly lay at their Door; but if not, they should have been treated as Lunatics, or as Persons who being possessed

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by an evil Spirits had been the unhappy Instruments of taking away the Lives of their honest Neighbours. The confessing Witches may possibly deserve a little more Compassion, if their Confessions were extorted by Violence, or arose from the pure Necessity of saving their Lives this way, and no other (as I believe was the Case of most of them). But yet bearing false Witness against their Neighbours, and dipping their Hands in their innocent Blood, ought not to have been passed over in Silence. If the Confessions of any were voluntary; and free from Restraint, as Doctor *Cotton Mather* says *W* ——— *B* ———'s was, and many others; if they confirmed them afterwards in cool Blood with very strong Circumstances, such as relating the Times when they covenanted with the Devil, and the Reasons that moved them to it; their mock Sacraments, their signing the Devil's Books, and shewing the Place in their Bodies where they drew Blood to sign with, &c. They ought at least to have been put to the Tryal, whether they would have owned their Confessions with their dying Breath; But things were in such Confusion at this time, that nothing of this Nature was attempted. There was a discontented Party in the State that clogged the Wheels of Sir *William Phipps*'s Government, and at length got him recalled: But before Sir *William* went for *England*, being willing to make all Parties easy, he published a general Pardon, for which (says my Author) he received the Thanks not only of the Country, but of the Queen of *England* herself.

Mr *Paris* indeed, in whose House this Tragedy began, and who had himself been a Witness and a zealous Prosecutor of the Accused, felt the Effects of the People's Resentment some time after; For his People not only withdrew from his Communion, but presented several Petitions and Remonstrances to the Magistrates and Ministers of *Boston* to obtain his Removal: They declared, 'That Mr *Paris*'s believing the Devil's Accusations, and readily departing from all Charity to Persons of blameless Lives and Conversations upon such Suggestions; his promoting Accusations, and his Partiality therein, stifling some and encouraging others; his going to *Mary Walcut* and *Abigail Williams*, to know who afflicted the People in their Illnesses; and his taking an Oath that the Prisoners by their Looks, knocked down the pretended Sufferers,

5 L

though

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' though 'tis certain he knew nothing of the matter, obliged them to refuse him for their Minister.' The Ministers of *Boston* did every thing they could to make up the Difference, and Mr *Paris* himself in the Year 1694, made a publick Acknowledgement of his Error, begging

Pardon both of God and Man; But the People insisting that they neither could, nor would sit under the Ministry of a Man who had been an Instrument of the Misery and Ruin of so many of their Relations and Friends, he was at last removed.

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4 W. & M.*Jane Wenham.*

Proceedings against JANE WENHAM, the Wife of
WENHAM, of Walkerne in the County of
Hertford Labourer, for Witchcraft, at Hertford
Affizes, before Mr Justice POWEL, 4 March 1711-12.
II Queen ANNE.

1711-12.
11 Q. Anne.The Charge
against her.The Evi-
dence.

JANE WENHAM the Prisoner was Indicted for Sorcery and Witchcraft, and particularly for *conversing Familiarly with the Devil in the Shape of a Cat*, and being arraigned at the *Lent Affizes at Hertford*, pleaded *Not Guilty*. Whereupon the Witnesses, to the Number of sixteen, were produced against her.

The first Witness that was sworn, was *Anne Thorne*, the Person said to be bewitched, but she pretending to fall into a Fit in Court, the Prisoner at the request of the Jury, was brought near the said *Thorne* and spoke to her, whereupon the Girl flew at the Prisoner with great Fury: The Judge suspecting it was a Trick, said he never heard, That in any Witches Tryal, the afflicted Person fell into a Fit in Court. However the Maid seemed incapable to give her Evidence.

Matthew Giltson of the Parish of *Walkerne*, Labourer, was sworn, who deposed, ' That on *New-Year's-Day* last past, carrying Straw upon a Fork from *Mr Gardiner's Barn*, he met *Jane Wenham* the Prisoner, who asked him for some Straw, which he refused to give her; then she said she would take some, and accordingly took some away from this Witness.

And farther, ' That on the 29th of *January* last, when this Witness was Threshing in the Barn of his Master *John Chapman*, an old Woman in a Riding-hood, or a Cloak, he knows not which, came to the Barn Door, and asked him for a Pennyworth of Straw; he told her he could give her

' none, and she went away Muttering. ' That after the Woman was gone he was not able to Work, but ran out of the Barn as far as a Place called *Munder's-Hill*, (which is above three Miles from *Walkerne*) and asked at a House there for a Pennyworth of Straw, and they refusing to give him any, he went farther to some Dung-Heaps and took some Straw from thence, and pulled off his Shirt, and brought it Home in his Shirt; he knows not what moved him to this, but says he was forced to it, he knows not how.

Other Witnesses deposed, ' That they met the said *Matthew Giltson* running on his Errand, that he went a very great Pace, and when he came to a River he did not go over a Bridge in his Way, but directly through the Water.' This odd Story, and the strange Account the Boy gave of it, made his Master *John Chapman* suspect that *Jane Wenham* had played this Trick upon his Servant, and soon after he meeting her, told her of it, and in Heat of Anger called her a *Witch* and *Bitch*.

That *Jane Wenham*, the Prisoner, thereupon applied herself to Sir *Henry Chauncy*, a Justice of Peace, for a Warrant against this Man for calling her a *Witch*. That the Justice by the consent of the Parties, referred the matter to the Reverend Mr *Gardiner*, the Minister of the Town, and they went to him to decide the Controversy between them: Mr *Gardiner* having heard *Jane Wenham's* Complaint, advised them to live

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more peaceably together, and ordered *John Chapman* to pay her a Shilling, but would allow *Jane Wenham* no farther Satisfaction; At this her Anger was greatly kindled against Mr *Gardiner*, and she went away in a great Heat, saying, *If she could not have Justice here, she would have it elsewhere*, or Words to that Purpose.

That the said *Anne Thorne*, who was Servant to Mr *Gardiner*, being in the Kitchen while her Master was examining the Case, and making a strange Noise, he went out and found the said *Thorne* stript to her Shift-sleeves, howling and wringing her Hands in a dismal manner, and Speechless; He calling out, Mrs *Gardiner* and Mr *Bragg*, came immediately to him: Mrs *Gardiner* seeing her Servant in that sad Condition, asked her what was the matter with her? She not being able to speak, pointed earnestly at a Bundle which lay at her Feet, which Mrs *Gardiner* took up and unpinned, and found it to be the Girls Gown and Apron, and a Parcel of Oaken Twigs, with dead Leaves wrapt up therein.

As soon as the Bundle was opened, *Anne Thorne* began to speak, crying out, *I'm ruin'd and undone*; and after she had a little better recovered herself, gave the following Relation of what had befallen her: She said, 'When she was left alone she found a strange Roaming in her Head, her Mind run upon *Jane Wenham*, and she thought she must run some whither; that accordingly she ran up the Close, but looked back several times at the House, thinking she should never see it more; that she climbed over a Five-Bar-Gate, and ran along the Highway up a Hill: That there she met two of *John Chapman's* Men, one of which took hold of her Hand, saying, she should go with them, but she was forced away from them, not being able to speak, either to them, or to one *Daniel Chapman*, whom, she said, she met on Horseback, and would fain have spoken to him, but could not; Then she made her way towards *Cromer*, as far as a Place called *Hackney-Lane*, where she looked behind her, and saw a little Old-Woman muffled in a Riding-Hood, who asked her whether she was going? She answered to *Cromer* to fetch some Sticks to make her a Fire; The Old-Woman told her there were no Sticks at *Cromer*, and bid her go to that Oak-Tree, and pluck some from thence, which she did and laid them on the Ground;

then the Old-woman bid her pull off her Gown and Apron and wrap the Sticks in 'em, and asked her whether she had e'er a Pin. Upon her answering she had none, the Old-woman gave her a large crooked Pin, bid her Pin up her Bundle, and then vanished away: After which she ran Home with her Bundle of Sticks, and sat down in the Kitchen strip, as Mr *Gardiner* found her.

That Mrs *Gardiner* said her Maid was bewitched, and she would burn the Witch; and thereupon took the Sticks together with the Pin and threw them into the Fire, and immediately in the Instant that the Sticks were flaming, *Jane Wenham* came into the Room, and enquired for *Elizabeth* the Mother of *Anne Thorne*, saying, she had an Errand to do to her from *Yardley-Bury*.

The Witnesses farther deposed, 'That the Distance between Mr *Gardiner's* House and *Hackney-Lane*, whither *Anne Thorne* the afflicted Person ran, is half a Mile, and that the whole time in which she went thither, conversed with the Woman above described, and returned Home, was not above six or seven Minutes at the most, so that she ran at the rate of above eight Miles an Hour: Though she was then very lame by putting out her Knee-Pan.'

That to be fully satisfied of the Truth of what the Girl had related, Mr *Gardiner* and Mr *Bragg* went to *John Chapman*, and enquired of the two Men she said she had met, and they related, that they saw *Anne Thorne* running up the Hill with a prodigious Swiftnefs, that one of them endeavoured to stop her, but could not; the same also *Daniel Chapman* afterwards confirmed, all of them exactly agreeing with what *Anne Thorne* had related.

That the next Morning, being the 12th of February, *Anne Thorne's* Mistress asked her whether she thought she could go to Mistress *Adams's* House, (a near Neighbour,) to fetch a few Pease? She said, she thought she could, and went with Mrs *Rose Adams* (who had Breakfasted that Morning with Mrs *Gardiner*), to her House; Having got her Pease, as she was coming Home, she met *Jane Wenham*, who asked her why she told such Stories of her, as if she had bewitched her: *Anne Thorne* answered, she had said nothing but what was true, and she was the Cause of all her Disorder; to this *Jane Wenham* replied, 'If you tell
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'any such Stories of me, it shall be worse for you than it has been yet,' and shov'd her with her Hand. As soon as *Anne Thorne* had limped Home, she told her Mistress with a great Concern, that she had met *Jane Wenham*, and what had pass'd between them.

That when this Circumstance was press'd upon *Jane Wenham* afterwards, before Sir *Henry Chauncy*, she denied that she had met *Anne Thorne*, saying, she was at that time at *Weston* three Miles off: To disprove which *Thomas Ireland* made Oath, that he saw her in the Town within three Minutes of the time the Girl said to have met her.

That in the Afternoon of the same Day, the said *Anne Thorne* was taken Speechless, with strange Tremblings, and Convulsions of Body, and yet was all the while sensible, pointing, and making Signs towards *Jane Wenham's* House, and when she was able to speak, she said, she should never be well till she went to fetch more Sticks; and made many Attempts to go, but was prevented, her Mistress telling her she should not go, unless Company went with her. At last they let her go out, Mrs *Gardiner*, and many others following her; there were two High Five-Bar-Gates in the way, one of which was set open on Purpose, but instead of going through it, she leaped very nimbly over the other which was shut, being the same she had vaulted over before. Then she ran a little way farther, to the bottom of *White-Hill*, her Mistress and the rest following her; When she came thither, her Legs fail'd her, and she was not able to stand; so they took her up in their Arms, and carried her a little way back, then she could run to the same Place again, but proceeded no farther, her Strength failing her as before; thus she was tried several times, and always when she came just over-against that Place, she could go no farther. Then Mrs *Gardiner* ordered two Men to lead her forward by Force, which they assayed to do, but when she had got a little way about the same Place, she shriek'd out, as if violently Tormented, and begged them to let her go back, for something press'd so hard against her, that it would Kill her if she did not. So they carried her Homewards, and when she came to the Gates, they could not force her through that which was open, but she leaped nimbly over the other that was shut. When she was returned Home, she was in a Fit for some time and Speechless,

but when she could speak, they asked her why she could go no farther when she was at the Bottom of *White-Hill*? She answered, that *Jane Wenham* was in her way, and would not let her, and told her she might fetch more Sticks another time, but should not go if any Company went with her.

After a little rest, *Anne Thorne* found herself strongly prompted to go to *Jane Wenham's* House, saying, she would have some of her Blood; They let her go out again, she made towards *Wenham's* House, over a Hedge, but tumbling into the Ditch on the other side, she put her Knee out again; then she called to *Jane Wenham*, who was going into her House, to come to her, saying, 'tis you that Torment me, and more Words to that Purpose. *Jane Wenham*, answered, she was no such Person; Mrs *Gardiner* desired her to come to the Girl, she answered, she would not come, she knew what she had to do, and went into her House. Then *Anne Thorne* was brought Home again, and soon after fell into another Fit, pointing earnestly to *Jane Wenham's*. *William Borroughs*, a Neighbour, who was present, said, he would fetch her if it were possible, and soon after brought her to the Maid, who was Speechless, and to all Appearance in a fainting Fit; as soon as *Jane Wenham* approached her, she flew at her, crying out, you have ruin'd me? *Wenham* answered, you are a Lyar; No answered the Girl, I am not; you threaten'd me this Morning; which she having denyed, went out of the House, and *Anne Thorne* was better that Evening, but full of Pain, her Bone being out.

The next Morning, Mr *Gardiner* sent *Anne Thorne* a second time to the Bonc-setters, who lived three Miles off, and she returned about Noon pretty well, her Knee being very well set. About an Hour afterwards she was taken again with a violent Fit, which lasted a long time, and several times she seem'd to be dead, when she came so far to herself that she could speak, she said she must go again to the Tree to fetch more Sticks, and then she was sure, she should be well; upon Mr *Arthur Chauncy's* promising that he and *Thomas Ireland* would follow her at a Distance, and observe her Actions, and that they would endeavour to keep so near to her, as to be able if possible to prevent her coming to any Mischief, her Mistress let her go. When she came to the Tree, they had followed her so close (though on the

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the other side of the Hedge, least she should perceive them) that they saw her gather some Sticks, pull off her Gown and Apron, and wrap them up as before; they saw her also reach her Hand to the Hedge, as if she had taken something from thence. Then the Girl came running back so fast that they were left behind her; but upon her looking back, and seeing Mr Chauncy, she fell down against a Hedge, wringing her Hands in a lamentable manner; They stayed some time to see whether she could get up again, and upon her not rising, they came to her, and asked her what she ail'd? But she could give no Answer. Then they took her up in their Arms, and brought her Homewards; When they came to the Gates, they would have forced her through that which was set open, but could not do it with all their Strength, for she was forced from them over that which was shut with such an incredible Swiftnes as cannot easily be imagined, but by those that saw it. Then she ran before them into the House, and flung the whole Bundle into the Fire; Mrs Gardiner being by, took it off, and taking out the Sticks, threw them into the Fire. She continued in a Fit some time after; when she could speak, she cryed out there was another Pin in her Gown; upon searching they found one very crooked; it was then Mrs Gardiner asked what she had seen? She said she had seen the Old-woman again, who told her she need not come any more for Sticks, and gave her the Pin through the Hedge; adding, that the Old-woman's Hand was so black, that she knew not whether she had a black Glove or no, but her Face was so muffled in a Riding-hood that she could not see it: For sometime after this Anne Thorne continued pretty well, but soon after five o'Clock she was taken rather worse than before, and when she spoke, she cryed out, *she must go*? They asked her whither? She answered, *she could not tell, it was but a little way*, and flew up with such Strength that two or three Men could not hold her, though just before her Eyes were turned, and sunk in her Head, and her Teeth set, so that she seemed to be giving up the Ghost. Mr Chauncy persuaded Mrs Gardiner to let her go, and he with two or three more Men would follow her: When she saw the way clear, she started, and ran directly to the River at the lower end of the Close. Mr Chauncy caught her just as her Feet

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were in the Mire, and she was going to plunge herself into the Water. When she was laid hold on, she shrieked out, saying, *she must go*. Then Mr Chauncy and the rest led her over the Bridge, but she was for coming back into the Water. They brought her after this half way home to the House, when she cryed out, *she must go back again, for her Pains were so bad she could not bear them*, and she was very strong as before; they brought her to the River again, and she begged she might but touch the Water and she should be well; they took up some Water and gave it her, but that would not satisfy her, she must go into the River.

That she afterwards declared upon Oath, That at that time she was violently tempted to drown herself; and she thanked her Mistress and the rest, for not letting her go into the Water, for if she had touched it they could not have saved her; That they made her believe upon her earnest Request to go into the River, that they would throw her in, and gave her a Swing as if they were really about to do it, and she struggled hard to get out of their hands into the Water. After this they brought her into the House, where she fell into a Fit again, pointing to Jane Wenham's House; they observing her Eyes close shut, removed her, and set her Face at several times towards several Parts of the Room, yet she continually pointed with her Fingers the same way. Upon this some that were present were for bringing Jane Wenham to the Maid, and accordingly went for her, she had locked herself into her House, and said she was not well, and refused to come; they used all the fair Words they could think of to persuade her, not without offering her Money, if she would but come and speak to the poor Girl, but all to no purpose. Then they sent for the Constable (who had just received a Warrant from Sir Henry Chauncy, to apprehend her upon Suspicion of Felony and Witchcraft), when the Constable was come, they told her he was there, and desired her to open the Door by fair Means, and not to force them to do it by foul. She answered, she knew what she had to do better than they could tell her; on which they broke open the Door that was locked with two Locks and brought her to the Maid, who was lying Speechless, in very great Misery and Torture, but all the time very sensible, as she was indeed all along, during the whole Course of her strange Disorder.

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As soon as *Jane Wenbam* spoke to her, her Colour came into her Cheeks, and she started up, crying, *You are a base Woman, you have ruin'd me,* and flew upon her to scratch her, saying, *I must have your Blood, or I shall never be well.* She scratched *Jane Wenbam* in the Forehead with such Fury and Eagerness, that the Noise of her Nails seemed to all that were present as if she were scratching against a Wainscot, yet no Blood followed; *Jane Wenbam* holding her Head still, and saying, *Scratch harder Nan, and fetch Blood of me if you can,* yet still no Blood came although her Forehead was sadly mangled and torn by the Girl's Nails.

After this the Company began to expostulate with *Jane Wenbam*, telling her, she was a wicked Wretch to abuse a poor young innocent Creature at that rate; that she had been reputed a Witch for above twenty years; and other things they said to that effect. Then *Jane Wenbam* protested she was innocent, and offered to be tried, by searching her Body, to see whether she had any Teats, or by throwing her into the Water. One of the Company replied, that there was no occasion for it at present, but only desired her to let him hear her say the Lord's Prayer; she made several Attempts to do it but could not, always missing two or three Sentences. Mrs *Gardiner* bid her try whether she could say it after her, and repeated it Sentence by Sentence slowly to her; but neither could she do this, to the amazement of all Bystanders. It was observed, though she tried ten times she could not say this Sentence, *Forgive us our Trespases, as we Forgive them that Trespase against us,* nor that, *Lead us not into Temptation.* After this *Jane Wenbam* was kept in Custody of the Constable, and the Maid was pretty well that Evening.

That the next Morning, being *Thursday* the 14th of *February*, Sir *Henry Chauncy* came down to *Walkerne*, to the House of *John Trigg*, and *Jane Wenbam* was brought before him. Mr *Gardiner* and *Matthew Giltson* were severally examined, and gave in their Informations upon Oath. While this was doing, *Anne Thorne* fell into a violent Fit, and at last seemed to be dead, they carried her into the Yard, and brought the Old Witch to her, upon this the Blood came immediately into her Face, and she sprung up with great Strength and Fury to scratch *Jane Wenbam*, but was prevented by the Inter-

position of the People, who took her away. This was before a great Multitude of Spectators, who all declared their Belief that the Maid was bewitched, and that this Woman had bewitched her.

After this the Maid was well enough to be examined, and gave a large Account of what had happened to her, being the same in Substance with what is above testified. It was farther depofed, That Sir *Henry Chauncy* ordered four Women to search *Jane Wenbam's* Body, directing them to enquire diligently whether she had any Teats, or other extraordinary and unusual Marks about her, by which the Devil in any Shape might suck her Body. After about an Hours Search and Consultation, they returned, and affirmed, that they found no such Teats or Marks about her Body. It being now pretty late, Sir *Henry* ordered them to appear again before him the next Morning at his own House at *Yardley-Bury*, and left *Jane Wenbam* in the Constable's Hands.

That as soon as *Anne Thorne* was returned home to her Master's House, she had another Fit as grievous as any before, and was speechless but very sensible. Upon Mr *Gardiner's* asking her whether he should pray by her? She held up her Hands as a Sign that they should, and as soon as he had repeated three or four Sentences of the Lord's Prayer, she fell down on her Knees, and rehearsed the Prayers after the Minister as well as any of the Company. About half an Hour after she had another Fit, and was recovered out of that also by Prayer; then they kept her reading till four of the Clock in the Morning, when she went to Bed (having no more Fits) and rested pretty well that Night.

The next Day (being the 15th) they all came before Sir *Henry* again, at *Yardley-Bury*, where the first that gave Evidence was Mrs *Gardiner*, who confirmed all the Particulars above related, giving her Maid an extraordinary Character for her Sobriety, Diligence, and good Temper, by which she had gained the Love of all the Neighbourhood. Before Mrs *Gardiner* gave her Information, *Jane Wenbam* fell on her Knees at her Feet, begging her for God's Sake, not to swear against her, and used many Expressions of Fear, lest she should be sent to Goal, not without dreadful Imprecations on herself, if she were not innocent, and declared herself ready to submit to the Water Experiment; but Sir *Henry* would by no means allow of that
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The Reverend Mr Strutt, Minister of Yardley, asked her before all the Company whether she could say the Lords Prayer? She answered, *she could*, and attempted several times to do it, going on very readily till she came to *Forgive us our Trespases*, &c. which she could not repeat, nor these two Sentences together, [*Lead us not into Temptation but deliver us from Evil*] but would thus express 'em, [*Lead us not into no Temptation or Evil*] or [*Lead us into Temptation and Evil*,] or [*Lead us not into no Temptation, but deliver us from all Evil*] and thus she was tried six or seven times together. When she found she could not with all her Endeavours say the Lord's Prayer, she tried to excuse herself, by alledging she was much disturbed in her Head by the Hurry she was in, saying she wanted rest. Upon which Mr Strutt promised to come to her, and try her again the next Morning. In the mean time the poor Maid had another dismal Fit, as before, and was recovered out of it by Prayer. Soon after she had another, and when her Eyes were shut, the Witch was brought to her privately; then she immediately flew at her again with great Fury, saying, *Are you come to Plague me here too, you are a base Woman*, and more to that Purpose.

Susan Aylott, the Wife of William Aylott, of Walkerne, aforesaid testified, 'That about twelve Years ago last Christmas, she was sent for to the Wife of Richard Harvey, lying very ill in a strange Condition, and as soon as she came thither Jane Wenbam followed her, and she the Witness wondered that Jane Wenbam followed her, since Richard Harvey's Wife had told her, that she, the said Jane Wenbam, had bewitched her; Then Jane Wenbam went under the Window where the sick Woman lay, and said, *Why do they let this Creature lye there? Why don't they take her and hang her out of the way?* At which the Witness had some Words with Jane Wenbam, saying, *Take you and hang you out of the way*, and then Jane Wenbam answered, *Hold your Tongue, I dont meddle with you*, and that Night the sick Woman aforesaid died.'

And saith, 'That soon after Jane Wenbam came to this Witness's House, and looked upon a Child which was in her Lap, and stroaked it, and said, *Susan, you have a Curious Child; you and I have had some Words, but I hope we*

are Friends; and asked the Witness to lend her a Glass to carry some Vinegar in from the Shop; and she lent Jane Wenbam a Glass, who went away: And she the Witness was afraid of her Child, remembering she was thought to have bewitched Richard Harvey's Wife.

'That on Sunday following she was at her Brother Jeremy Harvey's House with her Child, and that her Child was taken in a grievous Condition, stark distracted, and so died the Thursday following. And she thinks that Jane Wenbam bewitched her Child; and saith also, That Jane Wenbam has had the Reputation of a Witch for several Years before.'

That the Reason Jane Wenbam bewitched Harvey's Wife was supposed to be this. Jane Wenbam's Husband had desired Richard Harvey to speak to the Town-Cryer at Hertford, to Cry down his Wife, lest any Person should Trust her to his Damage, and Richard Harvey had accordingly done it.

Thomas Adams, Junior, of Walkerne, deposed, 'That about three Weeks, or a Month before Christmas last, he met Jane Wenbam in his Turnip-Field with a few of his Turnips, which she was carrying away, and upon his Threatning her, she threw them down, but he told her she might keep them, for she should pay Dear for them; then she was very submissive, and begged Pardon, saying, she had no Victuals all that Day, and had no Money to buy any; afterwards they parted, and he saw her not after: But on Christmas-Day Morning, one of his best Sheep died without any Signs of Illness found upon the Body after it was opened; and nine or ten Days after died another Sheep in an unaccountable manner; and shortly after two more Sheep died also; none of them having any Marks of a Disease upon them, but being found in all their Parts, as his Shepherd informs him: He also saith, 'That his Shepherd tells him, that one other Sheep was taken strangely, skipping and standing upon its Head, but in half an Hour was well, and continued so; and another Sheep was likewise ill two or three Days, but is now well again: And Jane Wenbam having the common Fame of a Witch, he does believe that if they were bewitched, she did bewitch them.'

William Boroughs of Walkerne, Labourer, deposed, 'That he fetch'd Jane Wenbam to Mr Gardiner's House, when

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Anne Thorne was in her Fits as above-related; and that *Jane Wenbam* had the Reputation of a Witch for above ten Years.

Thomas Ireland of *Walkerne*, Labourer, deposed, 'That he met *Jane Wenbam*, within three Minutes of the time *Anne Thorne* said she threatned her.'

It was farther deposed, 'That after the Examinations of the Witnesses were taken before Sir *Henry Chauncy*, *Jane Wenbam* the reputed Witch was delivered into the Constable's Hands, and that *Anne Thorne* had several returns of her Fits afterwards, but was always recovered out of 'em by Prayer.'

The next Morning Mr *Strutt* the Minister of *Yardley*, called upon Mr *Gardiner* the Minister of *Walkerne*, to go with him to the Prisoner at the *White Horse* in the Town; When they were come thither, they found one Mr *Archer* of *Sandon*, a Relation of *Jane Wenbam's* with her; they went into a Room, and desired that we might be brought to them, which being done, Mr *Strutt* told her, in the Hearing of Mr *Gardiner*, that he hoped she was now in a good Temper, and her Head settled; She answered, *Yes*, and that she had a good Nights rest: Then Mr *Strutt* replied, That he was come according to his Promise, to see whether she could say the Lord's Prayer; She answered, she believed she could, for she had tried several times in the Night, and she made no doubt but she could say it, and accordingly she essayed several times to do it, but could not, making the same Blunder as before, though she could repeat the rest of the Prayer perfectly well: After this *Jane Wenbam* was asked whether she had any Hand in bewitching *Anne Thorne*? To which at first she gave no positive Answer; but upon Mr *Strutt's* telling her, that if she was Guilty of such a vile Fact, it would be the best thing she could do, both for the Salvation of her own Soul, and the good of others, to confess; Then she began to relent a little, and desired Mr *Strutt* to go with her into another private Room, and she would declare to him what she had to say: But he being desirous that Mr *Gardiner*, the Minister of the Parish, and her own Kinsman *Archer*, should hear all, pressed that they might be present, which she consented to; And before Mr *Gardiner*, and her Cozen *Archer*, Mr *Strutt* first asked her sincerely to tell him whether she was a Witch? She said she was; then

he asked her again, whether she had not a Hand in bewitching *Anne Thorne*? She said she had a Hand in bewitching *Anne Thorne*, but there was another who was as deep in it as herself: Then he asked her what induced her to do such a wicked Act? She replied that the Girl had once vexed her. Then it was thought fit to ask her, whether she did not meet *Anne Thorne* on Tuesday Morning as she came from Mrs *Adam's*, and Threaten her, as she, the said *Anne Thorne*, told her Mistress? She answered she was not at Home at that time; Mr *Strutt* asked her if it was not herself, whether it was not her Familiar in her Shape? She confessed it was her Familiar in her Shape. After this Confession in general, that she was a Witch, and had bewitched *Anne Thorne* in particular, they asked her farther how long she had lived in this Course of Witchcraft? She answered above sixteen Years; and that it was before her Husband died, who came to a very miserable End; and was supposed to have been bewitched by her. Then they asked her what it was that introduced her to enter into this Familiarity with the Devil? She said it was a malicious and wicked Mind; for when any of her Neighbours vexed her she used horrid Curses, and Imprecations, on which the Devil took Advantage over her: After this they desired her to inform them who were her Confederates? She named three Women of *Walkerne*.

That Mr *Strutt* and Mr *Gardiner* acquainted Sir *Henry Chauncy* what she had confessed, and whom she had accused of being her Accomplices, leaving it to him to do what he thought good in the matter; Sir *Henry* immediately sent a Warrant for the three Women whom she had named, and they were brought to *Yardley-Bury*. *Jane Wenbam* was also sent for, as were Mr *Gardiner*, Mrs *Gardiner* and the Girl; *Jane Wenbam* was put into a separate Room from the rest, and privately examined by Sir *Henry*, but could fix no one particular Fact upon any one of those whom she accused: In the mean time *Anne Thorne* was in as violent a Fit as any she had had yet, and her Eyes fast closed, every one of these Women was brought to the Maid, touched her and spoke to her, but she took not the least notice of them. After this *Jane Wenbam* was brought privately to her, and immediately she flew up with great Strength and Fury, crying out, *What are you come again*

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again to Torment me! And would have scratched her as formerly: After this the Women were discharged till farther Evidence should come in against them.

This Article relating to *Jane Wenbam's* Confession, was attested by those two Reverend Divines Mr *Strutt* and Mr *Gardiner*.

After *Anne Thorne's* return Home from Sir *Henry Chauncy*, she continued very restless, and wanted to go out, but they would not suffer her. It was observed, that she did not point as usual to *Wenbam's* House, and being asked the Reason of it, she said *Jane Wenbam* would not let her; she had several Fits that Day (for whenever she left off reading a Fit came upon her); but was constantly recovered by Prayers. About seven or eight at Night she said she saw things like Cats appear to her, telling her she must go. She said also, that always before a Fit she saw a Cat, which would not only appear to her but speak, and tell her several things, tempting her to go out of Doors. It was also taken Notice of, that a dismal Noise of Cats was at that time, and several times after, heard about the House, sometimes their Cry resembling that of young Children, at other times they made a Hellish Noise, to which nothing can be resembled; This was accompanied by Scratchings, heard by all that were in the House, under the Windows and at the Doors, which startled and affrighted them all to a great Degree, and several People, particularly *James Burville*, *Thomas Ireland*, and others, saw these Cats, sometimes three or four in a Company, which would run to *Jane Wenbam's* House whenever any Body came up to them; Mr *Chauncy* hearing a knocking at the Door, went out with *James Burville*, (Sir *Henry Chauncy's* Man) and saw two or three of them so near him, that he supposed they were not above half a Yard before him; he endeavoured to strike at them, but his Arm was stayed, and he had no Power to touch them though they stood staring in his Face.

Jane Wenbam had said to Mr *Gardiner*, and others, that the Maid would be well that Night; and so it had like to have proved in that Sense of the Word, in which it is usual to comfort the near Relations of one lately deceased by saying, *he is well*; for now she had another violent Fit, from which, no Prayers that never before failing Remedy, could relieve her; She was cold as a dead Corpse,

her Jaws were fallen, her Nose pinched, her Pulse gone, and several that applied their Mouths to hers, affirmed there was not the least Breath coming from her; Mr *Gardiner* had recommended her Soul to God; and all that saw her (who were very many of the Neighbours) supposed her really Dead, she lying without any Motion or Heat, or other Symptom of Life; Mr *Strutt* also was present, and joined with them in Prayer till there were no Hopes; at last it was resolved to send for *Jane Wenbam*, though it was then very late at Night; As soon as she came into the Room the Maid started up, and flew at her with amazing Strength and Fierceness, saying, as before, *Are you come again to Torment me? I'll have your Blood, and tear you to Pieces*; which she would have done, if she had not been kept down by main Force of three or four Men, who could hardly hold her; Immediately after this she was well again, having a lively Colour in her Cheeks.

It was farther deposed, 'That as Mr *Chauncy* was talking with *Jane Wenbam*, pressing her to take off the Charm, and release the Maid from her Torment, if it was in her Power (as she seemed to Hint it was by saying the Girl should be well) he observed, *That a Pin came into her Fingers he knew not how, for he was very sure she plucked it out no where, nor had it in her Hands before; at which he snatched it from her, saying, Are you a going to bewitch her again with this Pin? And the Maid crying out for her Blood, he took Jane Wenbam's Arm, and ran the Pin into it six or seven times, finding she never winched for it, but held her Arm as still as if nothing had been done to it; and seeing no Blood come, he ran it in a great many times more, still no Blood came, but she stood talking, and never minded it; Then again he ran it in several times more; at last he left it in her Arm, that all the Company might see it run up to the Head; and when he plucked it out before them all, there just appeared a little thin watry Serum, but nothing that you can call Blood.* Thus far Mr *Chauncy*. After this *Jane Wenbam* was sent away, who passed the rest of the Night in Singing and Dancing, as she had done some Nights before, saying the Maid should be well that Night.

After this the Maid had one Fit more, but was recovered out of it by Prayer, and continued so well that she could walk

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about, and rested pretty well till nine or ten in the Morning, when she had another Fit, but was recovered out of it also by Prayers.

Towards the Evening of the next Day, being *Sunday* the 17th of *February*, her Fits came to her very thick, and Mr *Chauncy* first perceived Pins which were brought to her Hands by invisible means; this also *George Chapman*, and afterwards many others, took Notice of; though Care had been taken that not a Pin was in any of her Cloaths, (the Reason of which was, because she said, she was often tempted to destroy herself by Pins.) When she had got a Pin, she was observed to smile, and look very pleasant, and afterwards would slyly convey it to her Mouth; Mr *Chauncy* took several from her, not without great difficulty, she clenching her Hands very fast to hold 'em; five of them he kept, and would have produced in Court, but the Judge did not think it necessary: After he had taken several from her, which she would find in her Hair, in her Gown, on her Apron, and in any Place where she laid her Hand, *George Chapman* took from her another, they were all very crooked: After this her Hands were tyed down, and she was pinioned in the same manner as we pinion condemned Malefactors, yet she would endeavour to get her Hands to her Mouth; Then they tyed her Hands behind her, but still they observed, by the Motion of her Mouth and Throat, that she seemed to receive and swallow something; on which *George Chapman* clapt his Hand to her Mouth, and said that he plainly felt a Pin striking against his Hands; and although several times they saw the Pins, yet they could catch them no more, they being as strangely conveyed away as they came: This sad sight concerned Mrs *Gardiner* more than all that had past, and made her despair of her Maid's Life; And being tired out with Grief and Fatigue, she withdrew herself and Children to a Neighbour's House, not being able to bear such sad Sights any longer.

This Evening they were advised to take some of the Girl's Urine, and put it into a Stone-Bottle, tye the Cork down and set it over the Fire, which they did, and sent to the House where the Witch was one that should observe whether she shewed any more than ordinary Uneasiness: It was found that exactly at that Time she seemed in great Pain, and shed Tears plen-

tifully, (which she never was observed to do before or since) and continued seemingly in Misery and Torture till the time that the Bottle flew with a Report as great as that of a Pistol, and then she was very Merry, Singing and Dancing as before: It was also taken notice of by two Men that sat up with *Jane Wenbam*, that in the Evening she pulled out her Pin-Cushion, which was stuck full of Pins, and that in the Morning when she produced it again they were all gone, and she wanted a Pin to Pin up her Gown. These Men farther said, that they observed that she had often crooked Pins in her Mouth, with what Design or with what Purpose they knew not; That when *Anne Thorne* was put to Bed, and her Hands tyed down, she was seen to lick several off the Pillows, so that they were forced narrowly to watch her: The Noises of Screaming of Cats, and Scratching at the Windows and Doors, still continued, but the Girl had no farther Harm that Night.

That before the Prisoner *Jane Wenbam* was sent to Goal, Mr *Gardiner*, Mr *Strutt*, Mr *Chauncy*, and Mr *Bragge*, went together to her at the White Horse, where Mr *Strutt* put her in Mind of her former Confession, and persuaded her to give Glory to God, by a full and sincere Discovery, but to no Purpose; she being full of Equivocations and Evasions, now confessing and anon denying, what she had confessed. She was particularly asked in what manner she made a Contract with the Devil? But we could make nothing of her Answer, save that an old Man did spit upon her. Being again desired by Mr *Strutt* to tell him exactly, to the best of her Remembrance, the time she entred into Covenant with *Satan*, She said it was above sixteen Years ago. She owned also as before, that it was an envious and wicked Mind that gave the Devil this Advantage over her. Being asked more particularly, she would give us no direct Answer, but said we lay in wait for her Life, and would hang her from her own Mouth. After this her Daughter came to her, and brought her a Common-Prayer-Book, which she with Tears desired her to make the best use of that she could, and to prepare for Death by Repentance. But the Mother, instead of shewing the least Signs of a relenting Mind, or Concern for the sad Condition she was in, gave her Daughter such a *Base wicked Look*, as the Witness was not

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not to able describe, and bid her mind what she said to her about some Flax, Hemp, and some other Goods, which she disposed of with the greatest Unconcernedness, and away she went.

Uriah Wright of *Walkerne*, deposed, 'That on *Sunday* last was *Sevennight* he asked *Jane Wenbam* whether she had seen the Devil or no? She, the said *Jane Wenbam*, answered, she had seen him following her, when she has looked over her Shoulder, and when she turned herself round he vanished away like a Shadow.

'That she, the said *Jane Wenbam*, told him, that something used to come to her House, and give three Knocks, and jumble at the Door; that she knew it was he (meaning the Devil) and that he (meaning the Devil) would have had her hang herself in the Buttery, or drown herself in the River. That she, the said *Jane Wenbam*, hath for many Years been reputed a Witch.

Thomas Harvey of *Walkerne*, deposed, 'That he heard *Jane Wenbam* say the same Words, and that she had been reputed a Witch ten Years.'

The two last Witnesses were the Men that carried her to *Hertford* Joal.

That in the Information of *Anne Thorne*, taken before Sir *Henry Chauncy*, she deposed, 'That in the Morning on the 26th of *February*, as she was lying in Bed, she saw a Cat sitting in the Window, which spoke to her, and told her she should have more Pins, and that casting her Eyes on the Sheets, she saw a large crooked Pin, but would not touch it, and hid her Head in the Bed-Cloaths, and soon after that looked in the same Place, and the Pin was gone, as was the Cat also.

'That on *Friday* the 29th of *February*, in the Afternoon, *Jane Wenbam* appeared to her at the Window, and called to her, bidding her come out of the Doors; but she told her she would not come, and repeated the Lords Prayer; that then *Jane Wenbam* disappeared; but afterwards came twice to the Window again, and finding her Reading, went away, and troubled her no more.'

When Mr *Strutt* gave that part of his Evidence relating to *Anne Thorne's* being recovered out of her Fits by Prayer, Judge *Powel* asked him what Prayers were used? He answered, several out of the Office for the Visitation of the Sick, and other Parts of the Common-Prayer.

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Whereupon the Judge replied, 'That he had heard there were Forms of Exorcism in the Romish Liturgy, but knew not that we had any such in our Church. However, he was glad to find there was such Virtue in our Prayers.'

While *Anne Thorne* was in one of her Fits in Court, the Reverend Mr *Chisbull*, one of the Queen's Chaplains, desired leave to pray for her, and was permitted, using that Form in the Office for the Visitation of the Sick, which begins, *The Almighty Lord who is a strong Tower*, &c. and repeated the Lord's Prayer, upon which the Colour came into the Maid's Cheeks, and the Jury, and others that were near her, heard her distinctly repeat the Petitions of the Lord's Prayer after the Minister.

The Prayers being ended, Mr *Chauncy* deposed in Court, 'That he was present at the second time of *Anne Thorne's* running for Sticks; that then she went no farther than the Bottom of *White-Hill*, her Strength failing her (as above testified:) That he followed *Anne Thorne* at a Distance when she went the third time, but behind a Hedge so that she did not see him; That he saw her go to the Tree, pull off the Sticks, wrap 'em in her Apron, and come running Home. That when she fell down, he and *Thomas Ireland* took her in their Arms, and brought her Home; That she was forced from them, and went over a Five-Bar-gate as nimbly as a Greyhound; which Words my Lord taking notice of, he again affirmed upon his Oath, that she went over as swiftly as ever he had seen a Greyhound leap over such a Gate. That he had seen *Anne Thorne* in several of her Fits, and that she always recovered upon Prayers, or *Jane Wenbam's* coming to her, and particularly related at large an Account of the greatest Fit of all, when she was given over for Dead, but recovered upon the Approach of the Prisoner, although at that time Prayers were insufficient. He related, That he pricked the Prisoner several times in the Arm, but could fetch no Blood from her. That he saw Pins in the Hands of *Anne Thorne*, when there were none in her Cloaths nor any where within her Reach; that he took several of these Pins from her, which he was ready to produce. The Judge told him, that was needless, he supposed they were crooked Pins. Then Mr *Chauncy* proceeded

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ceeded to relate, that upon hearing a great Noise of Cats screaming about the House he went out several times, and saw several of them together; That he heard them Cry sometimes like Children; That once he was not able to strike them, but afterwards he killed one of them. Being asked with what? He answered, *with a Setting-Staff*. He said also, 'That he saw the Feathers taken out of the Maid's Pillow, that there were several little Cakes of Feathers nicely joined together and so strongly cemented, that the first Night they were taken out of the Pillow he tried to pull them asunder, but could not do it, and for a farther Account of this, referred himself to

The next that was sworn: Mr Francis Bragge, began to relate, 'That he was present the first time of the Maid's running for Sticks, &c.' but was interrupted by the Judge, and asked whether he had any New matter which was not already sworn to? He answered, 'he had something New to offer;' being directed to proceed, he said, 'That on Tuesday the 19th of February, he (having heard that strange Cakes of Feathers were taken out of Anne Thorne's Pillow the Night before) was desirous to see them; That he went into the Room where these Feathers were, and took two of the Cakes, and compared them together. He said they were both of a Circular Figure, something larger than a Crown Piece. That he observed the small Feathers were placed in a Nice and Curious Order at equal Distances from each other, making so many Radii of the Circle, in the Centre of which the Quill-ends of the Feathers met. That he counted the Number of these Feathers, and found them to be thirty two in each Cake. That afterwards he endeavoured to pull off two or three of them, and observed that they were fastened together by a sort of viscous Matter, which would stretch seven or eight Inches in a fine Thread before it broke. That having taken off several of these Feathers, he removed with his Finger that viscous Matter, and found under it in the Centre, some short Hairs, Black and Grey, matted together, which he does believe to be Cats Hairs. Upon Examination of the other Cake he found it exactly resembling the former in all its Parts.' He said, 'He did not examine any more of them,

but they seemed to be all alike, and that he saw ten or twelve of 'em.' He said also, 'That Jane Wenham confessed to him that she had practised Witchcraft sixteen Years.'

The Judge said he wished he could see an Enchanted Feather, and seemed to Wonder that none of these strange Cakes were preserved, and asked the Witness why he did not keep one or two of them? He answered, he would have done it, but was not permitted, they being of Opinion that the Maid might be eased if they were all burnt.

John Chapman of Walkerne, Yeoman, deposed, That he had for many Years suspected the Prisoner to be a Witch: That the Reason why he did so was because he constantly found, whenever she had threatned him, that his Horses, and other of his Cattel died strangely, without any Signs of a Natural Disease, and that he believed he had lost above two hundred Pounds by her in a very short time.'

Elizabeth Field deposed, 'That about nine Years ago she had a Nurse Child, and that one Day the Prisoner came and stroaked the Child, saying, it was a Curious Child, or Words to that Purpose; that soon afterwards in the Evening of the same Day, the Child was taken strangely ill, one of her Legs being so distorted, that her Toes were turned back behind the Heel, that in two Days time that Leg was well, and the other distorted in the same manner, as the first had been. That afterwards the Child had strange Fits, and Convulsions at times, and pined away till she died; that she always thought the Child was bewitched by Jane Wenham, the Prisoner at the Bar.' Being asked why she did not Prosecute her immediately after? She answered, 'She was a poor Woman, and the Child had no Friends able to bear the Charges of such a Prosecution.' Being again asked, whether she was grown Rich since? She said, 'She was still very poor, but this Opportunity presenting itself, she laid hold of it to give her Evidence.'

William Burroughs being sworn, said, 'That he had seen Anne Thorne in several of her Fits, that he twice brought the Prisoner to her, and that both times she recovered immediately, and flew at her to scratch her; he said also that the Prisoner was one of a very ill Reputation, and that he and several others

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' of the Neighbourhood, had suspected her to be a Witch for many Years.'

Thomas Ireland was the next sworn: ' Who attested that he had been all along an Eye-Witness to the whole Course of the Maid's Disorder; that he had seen her recover out of her Fits at the Approach of the Prisoner; that he saw *Jane Wenbam* within three Minutes of the time, when *Anne Thorne* had said that she threatned her it should be worse with her than it had been yet: That he hearing a Noise of Cats crying and screaming about the House several times, went out, and saw several of them, which made towards *Jane Wenbam's* House, that he saw a Cat with a Face like *Jane Wenbam*, that he with *Mr Chauncy*, was not able to force *Anne Thorne* through the Gate which was open, but she went over the other very swiftly.'

James Burvile, also deposed, ' That hearing the Scratching and Noise of Cats, he went out and saw several of them, that one of them had a Face like *Jane Wenbam*, that he was present several times when *Anne Thorne* said she saw Cats about her Bed, and more he would have attested, but this was thought sufficient by the Court.'

The Prisoner *Jane Wenbam* in her Defence protested her Innocence, and said she was a clear Woman, but what farther she said *Mr Bragg* who took the Tryal does not inform us.

He adds, That the Judge having summed up the Evidence in a short Speech, and without making any Remarks upon it, left the Case entirely to the Jury, who after a short recess brought in the Prisoner Guilty. Whereupon the Judge asked them whether they found her Guilty of *Conversing with the Devil in the Shape of a Cat*, as laid in the Indictment. To which the Foreman, answered, *We find her Guilty of that*, whereupon Sentence of Death was pronounced against her; but the Judge thought fit to Reprieve the Prisoner, and upon his Representation of the matter to the Queen she obtained a Pardon.

Remarks were made on this Account *Mr Bragg* gives of the Tryal of the said *Jane Wenbam* by several Hands.

The first of these Remarkers denies it to be in the Power of any Person the World calls a Witch or Familiar; to force any Person against their Will, upon such trifling Errands, or to act so upon them,

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as to make them leap *Five-Bar-Gates*, &c.

I pass by a Multitude of Follies, much of the same Nature (says he) 'till *Jane Wenbam* is brought to *Anne Thorne*, who longed to satiate herself with her Blood: Accordingly *Jane Wenbam* comes to her, and *Anne Thorne's* Colour and Speech returns, and she scratches *Jane Wenbam's* Forehead, but could fetch no Blood; which occasioned a very sage Remark. Now who but a Pack of Idiots could have expected a Torrent of Blood, or indeed but a few Drops, from a shrivelled old Forehead, which, if squeezed and collected, would not yeild half an Ounce? And even in it's most florid State, is but a dry Muscle, and the Vein a rowling one, not easily to be lanced by a Finger's Nail.

After this we find *Jane Wenbam* submitting to be searched, and willing to undergo all those Tryals that never fail of discovering a Witch, according to the Country Probations; but this we find passed by as unnecessary at that time, but afterwards tryed to no Purpose; tho' if any of those Persons concerned in her Arraignment, had from their Souls believed her as they represented her, I am apt to believe, they would have been likewise satisfied in that Point, as well as giving in to other ridiculous Notions and Experiments, as *burning the Bundle of Sticks*, and the *Pin*, and the *Feathers*, &c. But now comes on the famous Tryal of Skill about repeating the Lord's Prayer. The Reverend *Mr Strutt* the Chief Champion in the Lifts, and his Fellow Labourer *Mrs Gardener*, against a poor ignorant old Woman: *Impar Congressus*; And great Stress is laid upon her repeating, *Lead us not into Temptation*, with two Negatives. Now I would venture a small Wager upon it, take *England* all round, there are three Parts in four of the Country People pronounce that Sentence generally after this manner. But not putting this infallible Touch-Stone upon so uncertain an Issue, as coming from the Mouth of a Reverend Divine; it may be worth the while to enquire, whether too many of the Auditors were not very curious in watching every Lapse of her Tongue, or preventing her Repetition of those Words, with too many impertinent Questions, or alarming her with the supposed Impossibility of repeating them. But drawing off from Conjectures, I would fain know how the false Pronounciation of that

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Remarks on
Jane Wenbam's
Tryal

The Prisoner's Defence taken imperfectly.

The Prisoner convicted and condemned.

But Pardon'd.

Sentence

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Sentence particularly came to be the *Criticism* of a Witch: I think none of our Rubricks enjoin it as a Specifick Tryal, and I hope no learned Divine has borrowed it either from a *Popish* Legend, or found it amongst some Country Receipts for a Strain, a Quaking Pudding, or a cut Finger: No, we cannot think so meanly of any Branch of the Sacred Body: Then let's come a little closer to the Point, and try it by Dint of Reason. It would be some Satisfaction to know, why a Witch, &c. as the Reverend call poor old *Jane*, should boggle at one Sentence more than another? The Reason assigned, I presume is, that they being conscious of running voluntarily into Temptation, have not the Face to pray, that God would prevent them from falling into it; whereby the Reverend allow their Witch some Grace. But pray then with what a Front can such a Creature say, *Our Father*, &c. when she has renounced God, and resigned herself up to the Devil by Contract? How can she say, *Thy Will be done*, when she is continually employed in the Devil's Service? In fine, how can she pray, *Thy Kingdom come*, or for the second Coming of Christ to Judgment, when she must expect by that Judgment to be irreversibly damned? But here is a very strong Argument they bring to confirm the Guilt of *Jane Wenham*, viz. her falling down at Mrs *Gardiner's* Feet, before she gave in her Information; and begging her not to swear against her; using many Expressions of Fear, lest she should be sent to Goal. Now with me 'tis a moot Point, whether *Jane Wenham's* earnest Entreaty to Mrs *Gardiner*, not to swear against her, does not seem rather a tender Regard to Mrs *Gardiner's* Soul, for fear she should perjure herself in her Deposition, than a Discovery of her own Guilt. But setting that aside, *Jane Wenham* might very readily suggest to herself, that Mrs *Gardiner* being the Prime Undertaker in this Affair, a fierce Bigot, and a superstitious Believer of whatever dropt from *Anne Thorne's* Mouth in her raving Fits, might, by a Heat of Passion peculiar to such Zealots, give some Colourings of her own to the ridiculous Account she was to relate; And *Jane Wenham* being a poor helpless Creature, detested by the whole Parish, upon the Supposition of her being a Witch, being sensible of the Weight and Authority of such an Evidence, and that her Fate in a great Measure depended upon

her Deposition, might amid'st those anxious Fears and Cares, be allowed to solicit Mrs *Gardiner's* Favour without the least Colour of Suspicion: Then as to expressing her Fears of being sent to Goal, there is so little Stress to be laid upon it, that nothing could have justified the Mention of it, but only that it serves to make the Collection of Prodigies more curious: For who is there without dismal Apprehensions of a Goal? Who thinks of Confinement without Horror? Much more might such an abandoned Wretch, who had neither Friends or Money, dread being sent there; when, under her Circumstances, she could expect nothing less than a Course of Misery and Hardship worse than Death.

As to the Information of *Susan Aylott*, 'tis so disjointed, and even conjectural, after her own way of telling the Story, that it deserves no Remark.

Thomas Adams's is likewise of the same Complexion: He it seems has three or four fat Sheep die of the Megrims, by feeding in too rank Pasture; and because this poor old Creature was seen in his Turnip-Field, ergo, she bewitched his Sheep: Fair Consequences; and which, if made use of, might serve to condemn all the innocent People of a Parish, as well as the Guilty in the Space of a Year.

Another Wife-acre swears he came within three Minutes of *Jane Wenham's* threatening *Anne Thorne*; and if he had been in the *Indies* at that Time, 'twas as much to the Purpose.

But here is some seeming Weight in what comes next: Mr *Strutt* having renewed his Proof of *Jane Wenham's* Guilt, by her not repeating a particular Sentence or two in the Lord's Prayer, after his Dialect (which I have already shewn to be inconclusive) asks her, if she had any Hand in bewitching *Anne Thorne*? To which at first she gave no positive Answer; but upon Mr *Strutt's* telling her how beneficial such a Confession would be to her own Soul, and others, if she was guilty, she began to relent, and in the Presence of Mr *Gardiner* and her Kinsman *Archer*, Mr *Strutt* asked her sincerely to tell him, whether she was a Witch? She said, she was; then he asked her, whether she had not an Hand in bewitching *Anne Thorne*? She said she had, but there was another concerned with her; then he asked what induced her to it? She said the Girl had once vexed her: Then she was asked whether she did not meet *Anne Thorne* on Tuesday Morning

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Morning? To which she answered, no; but being asked whether it was not her Familiar? She answered in the affirmative: She likewise confessed she had lived in that Course of Life above sixteen Years: She then being asked, what induced her to that Familiarity with the Devil, said it was a malicious and wicked Mind; for when any of her Neighbours vexed her, she used horrid Curses and Imprecations, on which the Devil took Advantage over her.

With Submission to this Reverend Divine, I think that all the Questions are very superficial, and ensnaring, and half of them such as she knew not the meaning of. As to the first, whether she was a Witch? she is said to confess herself to be so: Whereas if his second Question had been, What is a Witch! she would not have been able to tell; and I question whether it might not have put his Reverence to some trouble to define: The Parish having lodged that Name over her for some Years, the poor simple Creature owned herself to be what they had stigmatiz'd her for, without either knowing the Hazard of Confession, or the Properties of a Witch. The second Question is as unfair as the first: For she not being supposed to know the meaning of a Witch in the Latitude her Accusers took it, by that second Question they involved the poor stupid Creature in a Plot against her own Life. If the Question had followed, about the Modus of her bewitching, she would have been as much at a Loss as to have defined a Witch. The third Question about her Familiar, is equally ensnaring, she not knowing the meaning of the Term, or the use a Familiar is put to: The good Man helped her out with a leading Question. Then as to her Confession of having lived in that Course sixteen Years, I take it to be no more than a bare Computation of the time the Parish had accounted her so. The last is as fair as the rest, viz. What induced her to such a Familiarity with the Devil? When we have no Account of any she made use of; what Familiarity this was, should likewise have been enquired into: The original Contract between them produced an Account likewise how the Commerce between them had been carried on: In what manner she acted under the Devil. But instead of this, we have the old dry Answer, *a wicked Mind*; and that *she using to curse her Neighbours, the Devil took Advantage over her*. Why is not the par-

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ticular Advantage the Devil took over her explained? No Doubt the Devil takes Advantage over every Person that transgresses, but not so as to bring him under his immediate Power and Influence; neither do I believe the Devil took any more Advantage over her, than any common Sinner. But the Questions and Answers are so prettily adapted, and contrived so well for shortning the Dispute, and ensnaring the poor senseless Creature in a few Words, that I cannot help believing but the whole Catechism, both Question and Answer, was contrived. Ah! But here is Self-Conviction; she is condemned out of her own Mouth, and what Necessity is there of farther Evidence? But consider the Creature that thus condemns herself; a poor stupid ignorant Wretch, that had been harassed out of her Senses, threatened by all the Parish, brow-beaten by the Justice, loaded with twenty hard-mouthed Depositions, closeted, and told the Advantages of confessing; and perhaps that a frank Discovery might be of use to her; I say, weighing all these Circumstances, what could be expected from this poor Wretch under this Consternation? But however it is no Rarity to find these reputed Sorcerers and Witches accusing themselves of what they were never guilty, even by killing Persons, when they have been actually alive; either out of an unaccountable Vanity of distinguishing themselves, or a vain Design of making themselves feared.

After this we are entertained with a merry Account of Caterwauling, and with such a Variety of Accents, as are seldom heard but about Midnight. But we find *Anne Thorne's* Fits continuing violent upon her, and she taking Notice of no Person; but when *Jane Wenham* was brought into the Room, she flew up with great Strength and Fury, crying out; *What, are you come to torment me?* And this done twice successively, once when all the Family had given over *Anne Thorne* for dead.

It must be allowed, that all Persons labouring under those violent Fits as *Anne Thorne* did, have their Seeing and Hearing much more exquisite (tho' depraved) than others, in regard of the Abundance of Animal Spirits which are volatilized; inasmuch, that it may be affirmed, that the greatest Part of their Blood is spiritualized or converted into Animal Spirits. Now we may rationally suppose, that *Anne Thorne* having spent her

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her Fury upon *Jane Wenham* in the former Encounter, that long Intermiffion, out of which she could hardly be provoked, but at the Appearance of *Jane Wenham*, may be ascribed to the great Expence and Wast of Animal Spirits in her last Fit, which she was forced to repair, by giving the Remainder of her Spirits time to increase.

In the next Place we meet with an *Enchanting Pin*, which young *Chauncy* takes out of *Jane Wenham's* Hand, and pricks her with, and at last fetches out a *Watry Serum*; by which I presume they mean a ferous Blood: And truly no more could be expected from a Woman advanced in Years, who lived low, and perhaps might have some other Reason for such a Scarcity of florid Blood: But after this we find *Jane Wenham* goes home, and passes the Night in Singing and Dancing, saying, *the Maid should be well that Night*: Was there ever such a Mixture of Frenzy, Simplicity and Unconcernedness? Truly I am apt to think, *Jane Wenham* herself was a little touched, by being so often put to the Torture of ill Tongues, and more an Object of Pity than Revenge.

Now comes on a Second-sighted Evidence, who *Sees Pins conveyed to Anne Thorne by invifible Means*: 'Tis pity there had been any more Depositions, this is so conclusive: It would puzzle a Judge, whether to try the Criminal, or the Evidence; for the Seeing an invifible Power looks very ludicrous.

After this these Witch-Hunters make use of an infallible Secret of proving *Jane Wenham* a Witch, by putting some of *Anne Thorne's Urine* into a Stone Bottle, tying the Cork down, and setting it over the Fire.

I presume this Experiment was made at the Instigation of Mrs *Gardiner*, who was the prime She-Undertaker in this great Affair. If the Rest were concerned with the *Maid's Urine*, they would oblige the World, with giving a *Rationale* of it's working such surprizing Effects.

In short these buify People were teizing *Jane Wenham* upon every Occasion, that they had brought her to Fits at last; and it's no wonder to find her falling into the Alternatives of Weeping and Laughing.

Before *Jane Wenham* is sent to Goal, Mr *Strutt* and Mr *Gardiner* make another Effort upon her, and reminded her of her former Confession, which the poor Creature took little Notice of, being full

of Evasions; by which we may learn, how little she knew of the Consequence of her confessing what she did confess; But she finding they improved it to her Disadvantage, and being advised, I presume, to lie more upon her Guard, was shy in answering, and told them, *They lay in wait for her Life*. Being asked in what manner she contracted with the Devil? She answered, an old Man spit upon her. A notable Method of Bargaining, and a pretty Invitation into his Service, and the newest way of Signing and Sealing between Parties, as one shall hear of. I have read in your Books of Demonigraphy something that looks more solemn; as that the Devil, in order to make People renounce God, usually makes them touch a Book, which contains several abstruse Characters, and then threatens to throw them into a deep Lake of black Water, if they don't instantly perform the Renunciation; Then at the Rendezvous of their Sabbath-Meetings, he gives them a Past of black Millet, and the Liver of an unbaptized Child, which has a Virtue in it of making them keep the Devil's Secrets; He likewise sucks the Blood of the left Foot of the Sorcerer, or Witch, with the like: These look like formal Initiations; but this poor Wretch was spit upon by an old Farmer; perhaps in Spleen or Derision, and possibly pi — d on, and this instantly dubs her a Witch.

Passing by the two senseless Depositions of *Isaiab Wright* and *Thomas Harvey*, we are next presented with an *Enchanting Pillow*, with a great many Cakes of small Feathers; which, how great a Wonder soever was made of it, is no Surprise to the Upholsterers, who meet with such Prodigies every Day, in the ordinary Course of Business. As to the *Maid's being better after the Burning of the Feathers*, it's no Wonder, People in *Anne Thorne's* Condition being always relieved by the Smell of such Volatiles.

The last wonderful *Phænomenon*, is *Jane Wenham's appearing to her in the Shape of a Cat*; Now, setting aside the Viciousness of *Anne Thorne's* Opticks, and the irregular Motion of her Spirits, which made her take a Cow for a Tree, and a Man for an Horse, I deny that there can be any such Transformation of an humane Creature into a Cat, Dog, Hare, or any other Species: It is not possible either in Soul or Body; not in the Soul, for that would be a Sort of Mortality, to which the Soul is not subject. The Sorceries

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Sorceries and Magical Effects of Evil Spirits may, if God permits them, stop the Passages of our Senses, disturb them, and enfeeble the Organs, but they cannot annihilate and extinguish the reasonable Soul, and efface the Image of God, to substitute a Brutal Soul in it's Place. But if it should be alledged, that the reasonable Soul sequesters itself, and makes room for the other, that cannot be done without the entire Death of the Body: Nor is it any more possible that two Souls, the Reasonable and the Brutal, should be joined together; for then there would be two essential Forms in the same Subject, which cannot be allowed according to Physical Principles: Nor is the Transformation of the Body more possible; for this Vehicle cannot be changed in order to substitute another to the Reasonable Soul, which is also improper to vivify and organize the Body of a Beast. This Head, this humane Brain in which the Imagination is lodged, and in general all the Members of the whole Body, are so aptly composed for the Functions of a reasonable Soul, that it cannot be lodged in the Head and Body of a Brute.

I shall take Notice but of one ridiculous Passage more, and so close up my Remarks upon this Narrative, which is that of *Jane Wenham's coming to Anne Thorne's Window after her Commitment, and threatening to torment her.*

Now I thought it was a received Opinion, That Witches had no Power over a Person after being in the Hands of Justice; But supposing they have, a *Quare* very naturally occurs: How comes it to pass, if these miserable Witches have Liberty to get out of Prison, that they are such Fools to return and expose themselves to the almost inevitable Danger of Suffering the Torments appointed in such Cases. At this Rate, we must believe they learn no Wit by conversing with the Devil.

Having briefly run over the Narrative, according to the Promise I made you at first, Sir, I proceed to shew how fallacious the Proofs of a Person's being a Witch are, and consequently ought never to extend to Loss of Life. In *Germany* People have a fine time of it: A bare report that the Person is a Sorcerer, or a Witch is enough: They are immediately upon that imprisoned, and then interrogated; if they deny it, they are put to the Torture; if they own it, they pronounce their own Sentence. It is not so

bad with us God be thanked, but the Proof against the Criminals of this kind, amongst us, is for the most part very precarious, the Chief Evidence against them being generally taken from Persons said to be bewitched by them, who are for the most part Distemper'd in Mind, and consequently their Attestation is of no more Weight than a Person's under a Delirium.

If any Mischief befalls a Person, or his Family, after the passionate, but impotent Threats of an Old Woman, 'tis a sure Argument of her being a Witch; as if the muttering of a few Words should conceal in them the occult Malignity of an immediate Poison, or that a Wish should be able to infect Cattel with the Murrain; or that God, whose Omnipotence but very rarely transcends the Laws of Nature, should allow them to be violated continually to oblige a petulant peevish Old Woman, and the Devil be still at her Devotion.

But if there be no Occasion; given if Envy, Revenge, Malice, or Power fall in with Ignorance, they may prove fatal to any destitute of Friends: Nay some Performances, the like of which hath not been seen before, in which appear some Motions, of which the Springs are unknown, have been sufficient to fix the Brand of a Sorcerer upon a Person. A Learned Man at *Paris* was accused of Magick, for printing a Commentary on the tenth Book of *Euclid*; and a *Norman* Gentleman observing from the Barometer, that it would not be long before it rained, got his Hay mow'd whilst the fine Weather lasted; which made the Country People report, he held a Correspondence with the Devil. The Water Experiment to try Witches is the most fallacious of any, so is that of Marks about the Body: A Mole, or Wart, or any Excrecence, passing current for the Stamp of the Devil. It would be endless to recount the several idle Tokens the Country People have of Witchcraft, and not one of them with the least Shadow of Reason.

Now that the Vulgar should ascribe every thing that's a little surprizing to Witchcraft, is no Wonder; but that Clergymen, Men supposed to have made some Improvement in Physics, should give into the little crude Notions of Nurses and Old Women, about things which might easily be solved by natural Causes, is astonishing: But there is a *Vulgar* amongst the Learned, who because they cannot

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readily assign a Cause for the Event, as being less obvious to Sense, presently conclude it præternatural. To own their Ignorance, 'twould put them into too great a Confusion, or give them too much Trouble to search into these Causes. 'Tis a surer as well as a shorter way, for their Reputation and Ease to cry it up at once for a Miracle. By that they free themselves from many perplexing *Queries*; and intermixing the specious Pretext of Religion with it, they seem to advance God's Glory.

I think, amongst the few good Things that *Lewis XIV* has done, this ought to be mentioned, that he has altered the Proceedings against Magic and Witchcraft, turning the Penalty of Death into Banishment, and afterwards by a Decree of the Council of State in 1672, ordered that all the Prisons in *Normandy* should be set open to all Persons that were detained for those Crimes.

Before we take our Leave of this Subject, we must examine a little into this Exorcism by Prayer, which we have reserved for the last. This Exorcism is of a very antient Date, practised amongst the People of *Greece*. But as it was managed at that time, it became Scandalous. It was performed generally by mean and mercenary Old Women, who made it their Business to go and read certain Forms of Prayer, in order to pacify Persons and Houses. This Trade of an Exorcist was accounted dishonourable in these Days, upon the Score of its being a pious Fraud: For which reason the Orator *Æschines*, Son to a Woman who had practised it, was ignominiously treated by *Demosthenes*. And I fear our Modern Exorcists will find as little Credit amongst the Judicious, especially if all the Exorcisms are performed like that upon *Anne Thorne*. Here is a poor Maid, Epileptick, Hysterick, Lunatick by turns: The Priest comes and prays by her in one of her Fits, which lasts more or less, according to the Disposition of her Animal Spirits. The Fit goes off in its due Course, and this is called an Exorcism. I do say, any one that sprinkles Water in a Person's Face that's going to swoon, has a better Claim to an Exorcist than these. I thought in all true Exorcisms, the Evil Spirit was cast out and entirely banished, and left the Patient with some Struggles; still we find him returning into this Exorcised Person at Pleasure: But perhaps it was not the same Devil, and 'twere more for

the Man's Credit to give out it was a fresh Demon every time: So having a Legion upon their Hands, they would have the Reputation of the greatest Kill-Devils in the Kingdom. It is with Indignation, a Man sees such bare-faced Impostures walk about in the Face of the World: But we presume they who would impose on the World in this manner, hope to find their account in it, and that nothing but Self-Interest could induce them to propagate such Delusions.

I dont apprehend with what colour of certainty these Gentlemen can attribute the Abatement of *Anne Thorne's* Fits, to the Success of their Prayers? Indeed they chose a proper time to prove the Force of their Spiritual Drugs, even when she was in her Fits; and they having a round Number of Collects to ply her with, it was ten to one if the Paroxysm did not abate in that time which was forthwith ascribed to Prayer; whereas I would venture any Wager, that the Maid had come to herself (as they vulgarly say) within that time, without the Assistance of those Prayers. Not that I would here be thought to derogate from the Prayers of our Church, and the admirable Collects contained in the several Offices: No, they shall ever have my highest Esteem; but I think them of no use in the Case before us, as neither being adapted to the Circumstance, or a Method any Ways recommended in Holy Writ. For I must beg leave to interpret that Passage of our Saviour's of *This kind, goeth not out but by Prayer and Fasting*, very different from the Reverends Exposition. By their making use of this Text in their Narrative, to justify the Efficacy of Prayer in such Cases, one would think that they understood the saying of our Saviour, as if Prayer and Fasting were the proper Methods for dispossessing an Evil Spirit: Whereas if we attend to the Context, we shall find it very different. This Expression of our Saviour's has its Rise from a Man's bringing his Son to him, who was possessed with a Dumb Spirit, having first tried the Power of his Disciples, who were unable to cast 'em out. Hereupon Christ reproves them for their want of Faith, and casts out this Dumb and Deaf Spirit: His Disciples taking an Opportunity to ask him, *Why they could not cast him out*, he told them, *This kind can come forth by nothing but by Prayer and Fasting*. Now by *Prayer and Fasting* in this place Christ means the Preparatory Acts of Devotion

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votion and Mortification, in order to obtain so sublime a Faith as was requisite to the subduing of those evil Spirits: Not that the bare *Opus operatum* of Prayer or Fasting was of any Power to expel a Dæmon or chase away a Spirit: For we never find our Saviour making use of any Form of Prayer, but with Authority commanding them forthwith to come out, which they did sometimes with Reluctance; and upon the Approach of our Saviour, knowing it was their last Effort, would leave very terrible Marks of their Rage behind them. Of these evil Spirits quitting them, and the immediate Change for the better, the Dæmoniacks were forthwith sensible, and they never returned. But in this Mock-Exorcism, we have no violent Struggles, but what were the immediate Effects of the Fit. The Maid is no ways sensible of any Spirit going out of her; she is tormented a-fresh in the Course of her Distemper.

If these Gentlemen had been a little more conversant with the History of Diseases, and enquired more narrowly into the Physical Causes of things, several Effects would not appear so perplexing, neither would they have been so forward to ascribe those Diseases to the Devil, where Nature is primarily concerned.

Another Gentleman in his Remarks on *Jane Wenham's* Tryal, says, It is strange to consider how far the Folly of Mankind hath proceeded in the Credulity, concerning the Actions both of Male and Female Witches: As if forsooth, they could transform Men and Women into Beasts; as if they could destroy the Fruits of the Earth, and the Fruits of the Womb at their Pleasure; as if they could raise Winds and Tempests, or allay them; enable or disable in Matters Venereal; in a Word, as if they could enslave Nature herself, and make the Universe obey their Commands. Examples indeed of this Prodigious Power, are scattered up and down the *Roman* Poets, such as *Virgil*, *Horace*, *Ovid*, *Tibullus*, *Propertius*, *Lucan*, &c. But that it has any Foundation in Holy Scripture, or takes its rise otherwise than from Heathenish Fables, afterwards improved by Papal Impostures, must always by me be denied.

As for the Opinions concerning *Inubi* and *Succubi* Devils, 'tis manifest they had their rise from the Fables of the Antient Heroes, who (as *Socrates* in *Pla-*

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to's Cratylus affirms) were begotten from the Conjunction of Deities with Human Creatures; Which kind of Conjunction, whosoever believes, makes that Belief of his, a Cloak for the Adulteries of the Heathen Priests, who often lay with others Mens Wives, pretending that the Gods had vouchsafed them the Honour of their Company. Very remarkable to this purpose is the Story of *Tyrannus*, a Priest of *Saturn*, who under this Pretence had carnal Knowledge of many a Man's Wife, till at last one Wiser than the rest, discovered the Cheat. In like manner *Mundus*, a Gentleman of *Rome*, by the help of the Priests belonging to the Temple of *Isis*, enjoyed his Pleasure with *Paulina* a *Roman* Lady, who mistook him for the God *Anubis*.

Now one would think that these Heathenish Fables and Follies, to come to my second Particular, although they took root in the Minds of the Christian Vulgar, should never have been assented to by those who account themselves Rabbies and Doctors of the People: Yet there is nothing of this Nature that was credited by those Barbarous Ages, that hath not been declared true by the Inquisition, and by the Canon Law.

The Notion of a Witch as understood now a days, has no foundation in Scripture, but is derived from Heathenish Fables improved by Papal Impostures.

'Tis certain that poor Old People, when they are abused by the insulting Petulancy of others, being unable to right themselves, either at Law or at Combat, for want of Money, and Strength of Body, do often times vent the Passion of their discontented Souls in Threats and Curses. 'Tis also certain that many Men troubled with Diseases of the Head or Heart, seem to be in perfect Health, and yet fall down dead of a suddain. Now if these two should Accidents meet together, I should see nothing but what is Natural, nor should I cry out upon the Devil and Witchcraft.

But methinks I hear some Zealots object, and say with great Vehemence and Assurance: *What need there be any Disputes about these Stories, since Parties themselves, as this Woman in particular, have confessed their own Witchcraft, and can there be any thing clearer than Self-Confession?* To this I answer, That the Wisest Man in the World may be brought, by Imprisonment and Torture, to confess any thing, whether it be true

or

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Or false, as many miserable Creatures confessing themselves Witches, have had their Confessions extorted from them by such cursed means. Besides, I am not to doubt, but some poor, silly, melancholy Old Wretches have really believed themselves Witches, and to be Guilty of those Actions, which not only their foolish Neighbours, but Men that are called *Worshipful*, have charged them with. Nor is it to be wondered at by any one that considers the strange effects of Melancholy, especially it heightened by Poverty, or want of good Diet, by Ignorance, Solitariness, and Old Age. For that such People take their very Dreams to be real Visions and Truths, I am sure, not only by Consequences drawn from their Actions, reported in Books, but by Experience also of my own Acquaintance. The Truth is, want of Knowledge in the Art of Physick makes Men attribute mere Natural Distempers to Spirits; Nay, Physicians themselves, who have shewn Excellence of Skill in Anatomy and Chymistry, perhaps have added little or nothing to the Diagnostick part of Diseases, so happily begun by *Hypocrates*. Hence it is that we are still in the dark, as to the many Abstruse Distempers of Human Bodies, especially such as arise from Melancholy; which are of so many sorts, and have such wonderful Effects, that whosoever should rightly describe them, and make them plainly manifest, would discover to us an unknown World full of unheard of prodigious Monsters.

If I have advanced Opinions contrary to those of the *Worshipful Sir Henry Chauncy*, whose great Age may excuse the Commitment of the Person that occasions this Dissertation, and cannot join with the Reverend Clergymen, whose Depositions were thought of weight enough by the Jury to bring her in Guilty, and whose Prayers of sufficient Efficacy to work a Miracle, and drive the Devil out of the poor sickly Creature, supposed to be bewitched, it is to be presumed I shall not be thought to fall under the Statute of Defamation, or be denied the *Benefit of my Clergy*. If the Doctrine of Witches should be carried to a height, and the Inquisition after it should be intrusted in the Hands of Ambitious, Covetous, and Malicious Men, it would prove of more fatal consequence to the Lives and Safety of Mankind, than that

Antient Heathenish Custom of *Sacrificing Men to Idols*: Inasmuch that we stand in need of another *Herculus Liberator*, who, as the former freed the World from *Human Sacrifices*, should in like manner Travel from Country to Country, and by his all-commanding Authority, free it from the evil and base Custom of *Imprisoning People to confess themselves Witches, and burning them after extorted Confessions*. Surely the Blood of Mankind ought not to be so cheap, nor so easily to be shed, by such who under the Name of God gratify Exorbitant Passions and selfish Ends; for without Question, under this side of Heaven, there is nothing so sacred as the Life of Man, for the Preservation whereof, all Policies or Forms of Government, all Laws and Magistrates are most especially ordained.

Doctor *Hutchinson* (now a Bishop) addressing himself to the Clergymen who were concerned in the Prosecution of *Jane Wenham*, observes, That they either did themselves or suffered others that were about them, to scratch and tear her Face, and run Pins into her Flesh. They set the Bottle and Urine, and turned the Lord's Prayer into a Charm. Notwithstanding the experience of *New England*, they trusted to the Spectre Evidence. They drove her to such Distraction, that by leading Questions, they drew from her what they called a Confession. They had her to Goal: The Witnesses swore to Vomitting of Pins, &c. The Jury found her Guilty, the Judge condemned her, and those Clergymen wrote a Narrative of the Tryal; which was received and read with such Pleasure, that in a Month's time it had a fourth Edition.

And yet the Tryal being before a Judge of Learning and Experience, he valued not those Tricks and Tryals; and though he was forced to condemn her, because a silly Jury would find her Guilty, he saved her Life. And that she might not afterwards be torn to Pieces in an ignorant Town, a sensible Gentleman, who will for ever be in Honour for what he did, Colonel *Plummer* of *Gilston* in the same County, took her into his Protection, placed her in a little House near his own, where she now lives soberly and inoffensively, and keeps her Church, and the whole Country is now fully convinced, that she was innocent, and that the Maid that was thought to be bewitched, was an idle Hussy, with Child at the time, as was well as soon as her Sweetheart came and married her.

I will

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I will take Leave to add, That as I have had the Curiosity to see the good Woman herself, I have a very great Assurance that she is a pious sober Woman. She is so far from being unable to say the Lord's Prayer, that she would make me hear her say both Lord's Prayer and Creed, and other very good Prayers besides; and she spake them with an undissembled Devotion, though with such little Errors of Expression, as those that cannot read are subject to. I verily believe that there is no one that reads this, but may think in their own Minds, that such a Storm as she met with might have fallen upon them, if it had been their Misfortune to have been poor, and to have met with such Accidents as she did, in such a barbarous Parish as she lived in.

If any of these Prosecutors think that I express this Case with too much Severity, before they find Fault I desire them to answer these Queries. I put them particularly to those of the Clergy who bore their Part in the Prosecution and are still living, for the most vehement Writer, who pressed her most severely with his Pen, is gone into the other World before her.

I. What single Fact of Sorcery did this *Jane Wenham* do? What Charm did she use? Or what Act of Witchcraft could you prove upon her? Laws are against Evil Actions, that can be proved to be of the Person's doing: What single Fact that was against the Statute could you fix upon her?

I ask, *Idly*. Did she so much as speak an impudent Word, or do an immoral Action, that you could put into the Narrative of her Case? When she was denied a few Turnips, she laid them down very submissively. When she was called Witch

and Bitch, she only took proper means for the Vindication of her good Name. When she saw this Storm coming upon her, she locked herself into her own House, and tried to keep out of your cruel Hands. When her Door was broken open, and you gave way to that Barbarous Usage that she met with, she protested her Innocence, fell upon her Knees and begged she might not go to Goal, and in her innocent Simplicity, would have let you swim her; and at her Tryal she declared herself a clear Woman. This was her Behaviour, and what could any of us have done better, excepting in that Case where she complied with you too much and offered to let you swim her.

III. When you used the meanest of Paganist and Popish Superstitions, when you scratched and mangled, and ran Pins into her Flesh, and used that ridiculous Tryal of the Bottle and Urine: Who did you consult? And from whom did you expect your Answer? Who was your Father, and into whose Hands did you put your selves? And if the true Sense of the Statute had been turned upon you, which way would you have defended yourselves.

IV. Durst you have used her in this manner if she had been rich? and doth not her Poverty increase, rather than lessen your Guilt in what you did?

And therefore instead of closing your Book with a *Liberavimus Animas Nostras*, and reflecting upon the Court, I ask you *Vtby*, Whether you have not more Reason to give God thanks, that you met with a wise Judge and a sensible Gentleman, who kept you from shedding innocent Blood, and reviving the meanest and cruellest of all Superstitions amongst us?

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Matthew
Prior.

Proceedings against MATTHEW PRIOR, Esq; for
High Treason, in Negotiating a Peace with France,
before a Committee of the Commons. Anno 1715.
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THE Ministry first discovered their Resentment at Mr Prior's Conduct, by an Order they sent him to deliver all his Papers to the Earl of Stairs, who was appointed to succeed as Ambassador to the Court of France, in the latter end of the Year 1714. Soon after which Mr Prior being commanded home, and returning to England, was by an Order of the house of Commons committed to the Hands of one of their Messengers; and having undergone a strict Examination before a Committee of the Privy Council on the first of April, he was afterwards examined by the Secret Committee of the Commons: Of which last Examination he has left us the following Particulars.

Mr Prior's
Account of
the Proceed-
ings against
him in Par-
liament.

The severest Charge (Mr Prior observes) against the Inquisition, is that those who are called before it are not allowed a Copy of their Indictment, but must themselves divine the Cause why they are Imprisoned.

Thus was it with me (says Mr Prior) I was called before the Secret Committee, and sworn by Mr Boscawen, a Justice of Peace, one of their Number, to answer not any particular Charge; The Committee on the contrary averred I was not accused of any Crime, and the Secretary of State assured the Committee, that by the King's Order what I should say should no way affect me. After which they proceeded to a wild Examination, not only of what I had transacted as Her late Majesty's Plenipotentiary for three Years before, but of what I might have any ways known or heard of what the Earl of Oxford, the Lord Bolingbroke, and others, concerned in her Majesty's Affairs, had acted.

In outward Appearance the Committee were all very civil, they set me a Chair equal to the Table where they sat, and next to Secretary Stanbope, who had the

Books and Papers of the Secretary's Office before him. Mr Walpole, the Chairman, said little more than mere Compliment. Mr Lechmere with great Industry hid from me, and often himself looked into Papers in Folio unbound and covered with a blue Sheet: I did not then know what they were, but during the Examination I perceived it was the Report then Printed, and in some few Days after Published. He began with an affected Eloquence, That as I had served in a very high Employment and with great Applause, the Committee relied on my Candor and Probity: That as what they asked me was for the King's Service, so what I answered would be for my own Honour. After this some of them began with several vague Questions: What I knew of the Negotiation? How long I had been acquainted with the Abbe Gualtier? If the Propositions came first from France, or if we sent them? And desired me to give them an Account of whatever I could of the whole matter; which it seems they thought I was so ready to do, that some of them took their Pens and Paper, as if I were to begin a Sermon, and they to take short Notes.

I said, as I had always acted abroad by the Authority of the Crown of England, and in Obedience to the King's Commands, given up all the Memorials and Papers which related to that part of the Peace in which I had a Share; I was desirous to answer the Honourable Committee (before whom I understood such Papers were) in every thing that might help to explain them: That my Books were already before them, and as I had already written to Mr Secretary Stanbope, those Books must even speak for themselves. The Committee seemed to acquiesce in my answer. Lord Coningsby whispered the Chairman and said

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said, *No, We will begin with the Money.*

The Committee then desired to know what Money I drew from the Treasury in 1711, when I went to *France*. I answered two hundred Pounds, as I remembered that was the Sum. I had Credit from Mr *Clifford* on his Correspondent, or on Monsieur *Cantillon*; I could not well remember which, it being four Years since. Had you those Bills (some of them said) from my Lord Treasurer? I replied, *No*. They asked me, Was it by his Order? I said I hoped there was no occasion for a reply to that Question. I presumed it would be found as other Money expended on the like occasion by direction of the Sovereign. I found they were not pleased with my Answer. *Walpole* said, will you think a little of the Method in which this Examination is to proceed? And Mr *Prior* will be pleased in the mean time to retire a little.

When I was called in again the same Question was asked me, and the same Answer returned. I added, that I well hoped those Sums, and several other of much greater Importance, were paid: That otherwise for want of Knowledge in the Crown-Laws, I should find myself a Beggar, and from an Hotel at *Paris*, might spend the rest of my Days in the Country: And here I addressed myself to Mr *Stanhope*, as to what I had writ to him concerning my Debts. He said that nothing of all this concerned me. *Prior*. I must apply myself to you upon another Head, I must own myself unexperienced in the Method of Parliament: I have no Papers by me, I have no Council, for want of Memory or Judgment I may err; and though, Gentlemen, I am accused of nothing, I know not but I may accuse myself through inadvertency or mistake.

Here Mr *Stanhope* rose up and said, that he had the King's particular Direction, that whatever I said to them, or they to the House of Commons, should not be of any prejudice to my self. I took a Sheet of Paper which lay before me and wrote this down, as I did what they had already said to me. Here after they had whispered, and some even separated themselves from the Table to confer in a corner of the Room, the Chairman told me I might withdraw, which I did, leaving the Notes I had taken on the Table.

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When I was called in again, I found their Civility much abated and the Battery quite changed. The most confused Questions were put to me upon several Heads backward and forward by *Lechmere*, *Boscawen* and *Connisby*, (the two first of whom I think understood not one Word of what they were saying). *Connisby* at length prevailed and said, Mr *Prior* you were sent out that you might have time to recollect more particularly on whom you had Credit, when my Lord *Oxford* sent you into *France*.

Prior. I have a great respect for the Earl of *Oxford*, but he never sent me into *France*. And turning to Mr *Stanhope*, who had the Books of the Office of 1711 in his Hand, I said as I had the Honour to be sent into *France* by the Queen's special Appointment and immediate Direction, I presumed the Copy of my Powers were to be found in the Books before him: Then turning to it, he said, Mr *Prior*, is this a Copy of your Instructions? *Prior*. I believe it is, but to give the Committee no farther trouble on this Head, I am ready now or at any other time to produce the Original as I think it may tend to my Service. Being asked of whom I received Money in *France*? I answered of Mr *Cantillon*. *Boscawen*, Was he not a Papist? *Prior*. Else Sir he could not have been a Banker at *Paris*, which he had been for several Years before I knew him. In one Word he was the common Panker to whom the *English* address themselves, and I think *Clifford* of *Amsterdam* was his Correspondent. *Stanhope* and *Walpole* I found Frowning and Nodding at each other, and extremely ashamed at this vile Stuff.

Being sent out and called in again, I found the Thunder broke out, and *Walpole* referring it to *Stanhope* to speak. *Stanhope* said, the Committee are not satisfied with your Behaviour to them. I have already told you that the Lords above and the Committee here have taken notice, that they find a constant Correspondence on your side to the Lord Treasurer, but no Answer from him; whereas all your Letters from Lord *Boltonbroke* are entire and commonly in their right order; some of those indeed are missing. The whole Committee echoed the same thing. *Prior*. I was told some Hours since by this Honourable Committee, that I should be asked nothing that might prejudice myself. I

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am a good deal confus'd, I have no Council, and with great respect I look upon this to be a downright Accusation of my self, as if I should have held a Correspondence I was unwilling to declare. I must refer my self to you in this Point Mr Stanhope. The Letters we receive when abroad from the Secretaries of State we keep Copying out Answers to them, both which justify our acting according to the Order sent us, and I presume it will be found that my Letters which you have in your Keeping, answer those written to me by the Secretaries of State, under whose Departments I acted, which Letters you have likewise. You have also the Letters I wrote to the Lord Treasurer in my Books, at least those that relate to publick Affairs and consequently were worth keeping. I did not or could expect a constant Correspondence from him. What I wrote was for his Information. What use his Lordship made of that Information, I have reason to presume was for the Queen's Service, and the Answers and Directions to me were to come by the Secretary of State.

Committee. It is strange that not above two or three Letters should appear from my Lord Treasurer: did he not write more to you?

Pri. He wrote to me several times and I obeyed his Commands intimated therein. These Commands performed, the Letters were of no use, and I no more kept them than I did Letters received from other Noblemen: The Duke of Bucks, Lord Hallifax, Lord Harcourt, then Lord Chancellor, &c. They related no otherwise to the Negotiation than in commending me, assuring me that he represented my Services to the Queen in a right Light, and wishing a speedy end to the Negotiation that I might come home to him.

Being sent out again and recalled, I was asked how many Letters I might in all have received from my Lord Treasurer, and what was the Substance of any of them.

Pri. As to the Number I cannot particularly tell: I received a Letter from him sometimes of five, and sometimes of ten or twelve Lines, ordering me to pay Sums of Money to Persons who had the Queen's Pension, and were then in France, or recommending some of his particular Friends to my Acquaintance, or which I thought much better, telling me he had

ordered the payment of my Bills; but I may very safely affirm that I had no Letter that could possibly concern the Committee or any Body else. I have one Letter that as Lord Treasurer he wrote to me, which related to the payment of the Dowry of King James Queen Mary, a thing publickly transacted and known here in England: But as no Progress was made in that Affair during my stay in France, and that it did not belong to the Negotiation of the Peace, I had not indeed given up that Letter, but as I thought I could find it or the Copy of it if it should have been thought of any use. In the mean time I thought proper in case any thing had been done in that matter, to keep that Letter for my own Justification, as indeed it would have been my Order.

Boscarwen. Sir you say you do not know how many Letters you had. Might you have ten?

Pri. I believe I might?

Boscarwen. Might you have fourteen?

Pri. I believe I might?

Boscarwen. Might you have sixteen?

Pri. Indeed Mr Boscarwen I have told you that I cannot answer you to any indefinite Number: It was still urged with great Vehemence, that I kept a constant Correspondence with my Lord Treasurer.

Pri. I am very far from denying it, but he did not keep a constant Correspondence with me. It was my Duty to write to him, and he was to make what use he pleased of my Letters; I complained sometimes of the Objections I met with at the Court of France in the execution of my Orders, and was very glad when by the Letters from the Secretary of State I found my difficulties made easier: But Gentlemen, since we are upon this Subject, throughout the whole Course of my Letters to my Lord Treasurer, and even in those I wrote to the Duke of Shrewsbury, after his Grace's return both in England and Ireland, I still complained that my Lord Treasurer did not write to me. And here indeed being very much teized and vexed, my Lord Coningsby raving and threatening that these Letters must be produced, I said if there be such Letters in the World that contain the Secrets of the Negotiation written by my Lord Treasurer, it might very well be presumed his Lordship kept Copies of them, and he must produce them; for, said I, by the Eternal God I know of no such Letters, and you know my Lord that your Countryman is no very exact Correspondent. This I said

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said having known that Lord *Coningsby* had troubled great Men, if not my Lord Treasurer particularly, with Letters who had never taken care to answer him. I grant this was foolishly said, for one should never provoke a Hedgehog.

Coningsby breaking out in a great Passion, said, that is imposing upon the Committee!

Pri. Imposing my Lord is a very hard Word? He lifted up his Voice in Anger and was going on.

But *Stanbope* yet louder than he, swore that he could produce every individual Scrip of Paper that had been written to him by any Man alive, or that he had written to any Man during his being a Minister abroad.

Prior. Mr *Stanbope* I'm sorry I cannot do the like: If it be so, you are the most careful Minister that every was sent abroad. They proceeded to demand an account of what they said I must needs know of the meeting of the Lords at my House with *Mesnager* and *Gualtier*. I had already heard that they had consulted their Friends of the Law upon that Point, and had determined to fix upon that meeting when the Preliminaries were signed as a Charge (or Overt Act) of Treason: How justly I leave to the Judgment of all disinterested and honest Men: Since first in the Nature of the thing, it is impossible for any two Nations in War ever to come to an Accommodation or begin any Plan, upon which a future Peace may be founded without some Overture and Intervention of this kind. All Treaties from that of *Vervens* down to this Day have been thus mediated. *Calieres* was in *Holland*, discoursed and conferred privately with Mr *Dyckvelt*, on the part of the States, about two Years before he took a publick Character and signed the Treaty of *Ryswick*. Monsieur *de Torcy* was publickly in *Holland* in 1709, conferred with the Pensioner and Deputies of States: And our own Plenipotentiaries the Duke of *Marlborough* and Lord *Townsend*, reported from those Deputies to her Majesty, what the *French* Minister either proposed or granted. *Mesnager* had as full Powers as *France* could give; had owned the Queen's Authority, and seen her Person, and had by her Majesty's Directions, several times conferred with the Lords of a Committee of Cabinet, all the World seeing the Man and knowing the Fact; so that any meeting after this could not be Secret, Dangerous or Treasonable.

Mr *St John's* Letter of the 25th of September 1711 to her Majesty, informs her immediately of this meeting, and her Majesty approves of what is there done, by her special Warrant for signing the Preliminaries containing the Demands made by her Order. Mr *St John* writes to the Queen thus,

'The Committee of Council met this Morning at the Cockpit, and directed the Earl of *Dartmouth*, and myself to confer with Mr *Mesnager*. We saw him accordingly at Mr *Prior's* House, where my Lord Treasurer and Lord Chamberlain were likewise present.'

The Treason therefore if there were any, was committed in the Morning by the Committee of Council at the Cockpit, and not at Mr *Prior's* House in the Evening. It may properly be added, the Queen had signed a Warrant 17th September 1711, to the Lord Keeper for full Powers, in which my Lord *Harcourt*, then Lord Chancellor, the Earl of *Oxford*, Lord Treasurer, the Duke of *Bucks*, President of the Council, the Bishop of *Bristol*, Lord Privy Seal, the Duke of *Shrewsbury*, Lord Chamberlain, Earl *Paulet*, Lord Steward of the Household, the Earl of *Dartmouth*, and Mr *St John*, Secretary of State, and *Matthew Prior*, Esq; were nominated and impowered to meet with the *Sieur Mesnager*, provided with sufficient Authority to settle an Eventual or Conditional Convention between her Majesty and the most Christian King. But this Warrant was not made use of, because they were Offers only on the *French* side, and did not oblige her Majesty to any thing; so they were only signed by *Mesnager*, and attested by *Dartmouth* and *St John*, only as Witnesses that these Articles were to be looked upon only as Conditions which his most Christian Majesty agreed to grant, and which were afterwards to be reduced to Form, and explained to the common Satisfaction of *Great Britain* and *France*.

Though this Procedure will hereafter without doubt appear consonant to common Sense, conducive to the safety and good of *Great Britain*, and justifiable by the universal Custom and Law of Nations, *Nunc non erat his locus*, I said Monsieur *Mesnager* had often been at my House, that the Secretary of State had seen him there, that I had Eat and Drank and been Abroad with him several times. They took great hold of this. *Bosca-*
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wen expressed himself with great Joy ; and said, *This is more than we knew before*; and from thence they ran wildly back : When I knew *Gualtier*? Where I had been with *Mefnager*? I answered to this in as general Terms as I could. The Chairman perceived that they would lose their Point in this multiplicity of Questions, and checking their Speed restrained it to this one Demand. What Lords were present at your House at the meeting when the Preliminary Articles were talked of, or signed? I answered, the two Secretaries of State, for it is certain they were so, their Names appearing in the Instrument.

Chairman. Was my Lord *Oxford* there?

Pri. I cannot recollect it : One of the Lords were absent, whether the Duke of *Shrewsbury*, or the Earl of *Oxford*, I cannot tell. In all Sincerity and Honour this is true. They grew extremely angry upon it, and sent me out to recollect if both these Lords were not present.

I came in and assured them again, that as well as I could remember a Transaction of which I took no Notes, and which was now above three Years passed, and of which I was so far from expecting to be called to an account, that I thought it was an Honour to me, I could not determine which of the two were absent. I said again that this was Fact, that I did not remember it: I have only an Idea that one of them was present. But upon this meeting no less Accusation than an Article of High Treason was to be founded. Was any thing more difficult ever put upon a Man, than to endeavour to extort an Evidence from me, in order to bring those to the Scaffold who were Friends and Patrons, under whose Orders formerly, and with whom jointly now, I had the Honour to Act by the Queen's Directions, and in a matter not only Innocent but Laudable! Or could any thing be more absurd or more inhumane, than to propose to me a Question, by the answering of which I might according to them prove myself a Traytor! since as I had heard every Man who is a Partner is a Principal in Treason: And notwithstanding their solemn Promise, that nothing which I should say should hurt my self, I had no Reason to trust them, for they violated that Promise within five Hours after. However I owned I was present there, whether this was wisely done or no, I leave to my Friends to determine.

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From the time of my being taken up by Order of the House of Commons to this Examination was just a Week.

They now, after I had been turned out and returned again, interrogated me: If since my being taken into Custody, I had not seen my Lord *Oxford* or any of his Relations? I said I had seen my Lord of *Oxford*, the last Sunday at Mr *Thomas Harley's* House, and was going on to explain, that Mr *Harley* and I who were taken up at the same time, living within three Doors of each other, commonly dined together at one or the other of our Houses, our respective Messengers guarding us. That on Sunday going to dine with Mr *Harley*, I saw my Lord of *Oxford* at the Stairhead going out, that I asked him if he din'd with us, and he told me he was to dine in better Company: That this was all that passed between us: The Messenger at the bottom of the Stairs heard every Word I said to him: As I was telling this, they answered it was sufficient, I had seen my Lord of *Oxford* and his near Relation, which was the Question asked.

Here I was ordered to retire, and when I was called in again, the Chairman from amongst many Books and Papers which he had before him (and the Secretary of State had on the other side as many, and I perceived many of them were my own): The Chairman I say abruptly enough threw one half Sheet of the large Demy Paper, written very foul and razed in several Places, which indeed when he gave into my Hand I hardly knew what it was, so far as to give any reasonable Account of it, it being without Date or Title, and very Imperfect as to the very Words and Style.

He asked me dryly and without any other previous Words, if I knew that Hand?

Pri. There are two Hands in it, one is very like the Hand I write when first I make my *Brouillon*.

One or two of the Committee. Sir, What do you mean by a *Brouillon*?

Pri. When I write any thing at first only for my own Memory, as to what I would draw up afterwards in a more perfect manner. I perused this Paper, and upon a little Reflection directing my self to Mr *Stanbope*, said, I believe this Paper contained some Notes upon a Letter I received from my Predecessor the Lord *Bolingbroke*. He was apprized of this before, for he readily turned to the

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the Letter which was Registred in the Office-Book. I added, that I thought there were some Notes I had taken in the *French* Language, to enable me to speak more particularly to Monsieur *De Torcy*, of the matters mentioned in the Secretaries Letter. As that Letter was written four Years before, and I was not in Possession of my own Letters, the Secretary himself and the Committee could best inform themselves of the Substance thereof.

There was written *My Lord, Je ne doute point que le Cour de France n' y trouve de remede*. Now whatever Lord that might mean, they had already printed it my Lord Treasurer, and in so doing had given that Sentence the wrongest Construction imaginable, as proving that my Lord Treasurer would give up *Tournay* to *France*, whereas the whole Hint was meant to renew to the Ministers of that Court, that *Tournay* was to be given to the Allies, and it was to keep the Court of *France* from endeavouring to hope the contrary. As what was in this *Brouillon*, was some times an Abridgment and sometimes a verbal Translation of my Lord *Bolingbroke's* Letter, which Mr *Stanbope* still held close, and as I read the *French* into *English*, I asked him if the same Sense was in the Letter, he did not deny it.

Coningsby grew extreamly angry, and on a sudden broke out into some Expressions, which neither he should have uttered, nor will I repeat, and so I was ordered to withdraw again, which was into the next Room, where not only a Messenger of the House of Commons, but a Doorkeeper of the Secretaries Office waited all Day, and were still ready to receive me.

Being called in again, I was interrogated without Method or Connexion, as any Member of the Committee pleased, and indeed with Confusion and Disorder among themselves; for they sometimes stopped each others Questions, and proposed new ones of their own. At last it came to this.

Chairman. We cannot doubt but you are apprized of the whole Affair of *Tournay*? Did my Lord ever write about *Tournay*?

Pri. I cannot readily answer, as not understanding the force of the Question: I believe my Lord Treasurer may have writ to me concerning *Tournay* at the beginning of the Negotiation: I am sure

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he has spoke to me about *Tournay*: I may be mistaken as to the time, but I think in 1711 the *French* insisted on their having *Tournay*: But I very well remember that the Queen's Instructions to her Ambassadors for the general Peace, were positive that the *Dutch* should have it: I understood the Negotiation to continue always upon that Foot. I added, that as the Affair of the *Barrier* was transacted at *Utrecht*, I had nothing in my Instructions relating to that whole matter, otherwise than as it might relate to the general Peace; what I have of the whole Negotiation is before you: Here *Stanbope* and another grew mightily perplexed, one in a fullen and the other in an unbounded Passion: *Coningsby* raved outright. I may justly protest that I could not conceive the Cause of this disorder, for I did not know that they had already founded their High Treason upon the Articles of *Tournay* against my Lord Treasurer, nor can I since comprehend why they did. To shew the Justice as well as good Judgment of these Men, it must certainly appear not only extravagant, but ridiculous to all who think righter than the Committee, that is to all Men living, that an Article of High Treason should be founded against an *English* Minister upon *Tournay*, which was not given up to the *French*, and no mention ever made of *Lisle*, which actually was given up. This by the way. It may be farther observed, that at that time not one third part of the Committee themselves did know upon what Point the Accusations either against the Earl of *Oxford*, or any Marcellse, were to be grounded; several of them having since told me themselves, that they never either drew up or read the Report; but that those things came to them, as they merrily expressed it, ready cut and dried.

But to return; This various and incoherent manner of Examination having now lasted above nine Hours, two of my Masters, by the way, Mr *Onslow* and Mr *Erle*, had left the Committee almost at the beginning of the Day: for to give them their due, they asked me very few Questions while there, and by going away seemed ashamed of the Proceedings. And now another grew weary of it and was going out, but was hindered, and as it were kept in the Chair by *Stanbope*, who said openly, they could not go on without the Chairman. I was ordered to withdraw, and during about half an Hour's

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Hour's Recess into the next Room, or rather Passage, as the Door was by chance opened, I heard them extremely merry and loud with one another. Whilst I was waiting in this little Room, *Coningsby* came out by a back way as *Boscawen* did by the fore Door. In this Room was a Trunk, and in it several Papers and Memorials, to which the Committee had recourse during the Examination. The Trunk was open, and I could not but perceive by the Indorsements that many of the Papers were my own; *Coningsby* whispered the Officers to take care that I should not come nigh the Trunk, and really looked on me more like a Fury than a Man; though certainly I had all the right imaginable to see every Paper that related to me in my Examination, which was pretended to be made on no other Foot, than that the King should be informed of what I had done for his Service in the Negotiation of Peace; and if the Committee themselves had really a Mind to be apprized of the Truth, as to the Fact, the hindering a Man whom they intended should become an Evidence from seeing his own Papers, was but an ill Method towards his giving a clearer Intelligence.

I was now called in for the last time, and found they had collected several Heads, of what they thought proper I should set my Hand to; I read them and made some Objections thereto, but to no purpose. I said, that to many Questions I had not, nor could answer in the positive manner that was there set down. That as to divers Facts I could not take things upon my Memory: That as to others, I had indeed said, *I believed I thought I had heard or understood they were so*: That the Omission of these Words made me say positively, and as an Evidence what I should not be able to maintain, having only answered them as my Memory served me, and as much as I knew of the Heads upon which I had been interrogated, knowing that they themselves had blamed my Answers for being very imperfect, and I had more than once told them, I was sorry I could not answer them more fully. I objected against these Words, *He confesses that since his Confinement he has conversed with the Earl of Oxford and his nearest Relations*. I did not I said, confess. Confession supposes a Crime: I was told I was accused of none. I said I had seen the Earl of Oxford at Mr

Thomas Harley's, and as I was going to tell the thing again, *Jesus*, said *Coningsby*, *how perjured is this Man?*

Prior. My Lord have a care of —

Coningsby. No Sir, it is you that must have a care.

Seeing now the Face of the Committee against me, knowing and presuming that if ever the Duke of *Shrewsbury*, the Earl of *Oxford*, or Lord *Bolingbroke* himself should be brought to Tryal I must be sure, before the Lords have an opportunity of explaining what I had said, and declaring what Usage I had found from the Committee, I signed the Paper. I cannot here omit a ridiculous Instance of my *Middlesex* Justice's (*Boscawen*) Skill in Law. He was just going to set his Name on the right Hand, where I was to have set mine; and if he had not been timely cautioned by the Chairman, it would have been the Deposition of *Hugh Boscawen*, *jurat coram me, Matthew Prior*.

When I had thus signed the Paper, the Chairman told me, that the Committee were not at all satisfied with my Behaviour, nor could give such an account of it to the House, that might Merit their Favour in my behalf: That at present they thought fit to lay me under a stricter Confinement than that of my own House. Here *Boscawen* plaid the Moralist, and *Coningsby* the Christian, but both very awkwardly. *Boscawen* said that he had often heard Mr *Stepney*, who was a wise Man and our old Friend, repeat this Proverb, *Near is my Shirt, but nearer is my Skin*; and told me, if I had remembered that saying and acted according to it, it would have been better for me. And *Coningsby* said, he had known me a long time, and was heartily sorry for my Condition, but all this proceeded from my own Fault. Now this kind Commiseration did not last above a Minute, for the Messenger in whose House they intended to confine me, being called, *Coningsby* asked him, if his House was secured with Bolts and Bars. The Messenger (Mr *Hollingshead*) who is by Birth a Gentleman, and a very good natured Man, was astonished at the Question, and answered, that he never had any in Custody but Parliament Prisoners, and that there were neither Bolts nor Bars in his House. Upon which *Coningsby* said very angrily, *Sir you must secure this Prisoner; it is for the Safety of the Nation; if he escapes you will answer for*

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for it. And now I met with another Hardship which indeed I could not have expected, viz. the depriving me of my Notes. As I had all Day taken Notes of the Heads of their Examination and my Answers, and particularly that Mr Stanhope had by his Majesty's Orders, informed the Committee that from whatever I should say in this Examination, nothing should or ought redound to my own Prejudice: Nor indeed could it be imagined I should answer upon any other Foot, for without the King's Consent, I doubt if I ought at all to have answered to the Committee.

The Examination being ended, Mr Prior remained confined a great while in the Messenger's House. He afterwards drew up an Apology in Vindication of himself, and the late Ministry, in answer to the Report of the Secret Committee, wherein he recites, that the Committee had reported to the House, that they had examined several Papers and Books relating to the late Negotiations of Peace and Commerce, to the Demolition of *Dunkirk*, to the Assiento Contract, to the Affair of the *Catalans*, and several Negotiations relating to the Pretender.

They begin with the Negotiation of Peace (The intended Demolition of *Dunkirk* as it is artfully called: The Assiento: And the Affair of the *Catalans* is referred to another opportunity, *ad Græcas Calendas*, and as to any Correspondence proved between the Ministry and the Pretender, another time and another Report may bring it to light).

The first thing that they express, is the surprize they are in to find several Books and Papers wanting. To find them wanting is extream good English, but the Sense this Phrase must bear is, that they sought for what they could not find. As for Books I know not what they could mean: I presume the ordinary Letters and Entries relating to the Negotiation as they were left, might consequently be found in the Offices of the Secretaries of State. Lord *Bolingbroke* had so little time to suppress or take away any Papers, that as I have heard say many of his private Correspondencies were seized. The Earl of *Strafford's* Papers were delivered up immediately on his arrival in *England*, as Mr Prior's were to the Earl of *Stairs* at *Paris*. They were all put into the Hands of a Secretary of State, but from thence indeed they were severally given to Persons, who were to read them

and make Extracts out of them. To Persons I say who neither by their Profession or Knowledge in the World, could be thought competent Judges of them. But they cannot find; so that as they find least Men are to be judged most culpable, and the supposed Crime of the accused, encreases as the Accuser knows less of the matter. Upon this way of reasoning, I should rather a Jury should find me guilty of High Treason than return *Ignoramus*. As to Books collected and bound together relating to the Pretender and his Interest, I presume they could not expect to find such in the Office.

The first material Paper found is named *The first Proposition of France*, signed by Monsieur *De Torcy*. This Paper is transmitted by Mr *St John* to my Lord *Raby* at the *Hague*: There are but five Days between the Queen's receiving these Propositions, and her communicating them to her Allies. And in these Propositions it is remarkable that the *Barrier* in the *Low Countries* should be agreeable to *England*, and the good liking of the *English*. The Preamble indeed is a little untoward, for his most Christian Majesty says, That those who governed the republick of *Holland*, had industriously rendred the Negotiation fruitless since the separation of the Congress at *Gertruydenburgh*. Her Majesty takes Notice to her Minister, that in them there is an Air of Complaisance to them in *England*. Why should there not be such? The effusion of very much *British Blood*, the vast Expence of a consuming War unequally carried on, and at last become impracticable as the Parliament expressed some time after, and the very Dignity of the Crown might require such Complaisance. The *Dutch* could not be offended at it, nor do otherwise than thank her Majesty for this Communication, and they do acknowledge the Queen's Goodness on this occasion. They declare themselves weary of the War, which they say they endeavour to conceal from the Enemy, but how far they did conceal it, or how they acted with her Majesty reciprocally, I shall touch in the Sequel of these Papers. This being premised by the way, that whereas the Committee do not find any Communication to the States of any Negotiation carried on for five Months after, let them only look to the seventh Page of the Report, where it is said, That Monsieur *De Torcy* had written in

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Mr Prior's
Defence of
himself and
the Ministry.

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June, both to the Pensioner and Monsieur *Vanderdussen*, giving an account that they (the *French*) had begun a Negotiation in *England*: So far was it from being kept a Secret from our Friends in *Holland*, either on our part or that of *France*.

This Paper called Mr *Prior's* Authority (page 5) is signed *Anne R* at the top, and *AR* at the bottom, not countersigned. A terrible Accusation from Persons versed in Business, Privy Counsellors, Chancellors, &c. No Powers from those of the least Agent, to the greatest Plenipotentiaries were ever countersigned; and I believe these Gentlemen will be of Opinion that *AR* at the bottom of the Paper, was a better Warrant for Mr *Prior's* Actions, than *Henry St John* or *Dartmouth* would have been.

The next thing remarkable is, that the *English* Ministry determined to carry on a separate Negotiation with *France*, that the Secret was to be kept inviolably, till allowed to be divulged by the consent of both Parties. How this was to be understood I have already shewn, the Queen as well as Monsieur *De Torcy* having communicated it to *Holland*. This keeping the Secret is a Form used in every Treaty that ever was made, and means that it should be communicated to as few as may be. But the Queen has here broke her word with *France*: Is this a Fault? If she had kept it had not that been a greater? But that any Negotiation of this kind in which so many Princes and States are jointly concerned, could possibly be carried on without some restriction of this kind, will be evident from what I shall hereafter observe from what has been always practised by all Nations engaged in Alliance of War; from what the Emperor and *Dutch* the chief of our Allies have done in relation to us, and each other during this and the precedent War; and from what we have reciprocally done towards them under the Ministry of these Men, who stand ready now to complain and impeach.

At the beginning of the Report the Committee said, they could not find that the *Dutch* were ever acting privately with *France*. A strange J—— in Men of their penetration. Some of them sure must have known that the States have never desisted, ever since their breaking off the Conferences at *Gertruydenburg* and the *Hague*, to correspond

with *France*. They have thier Agents always out. *Leers* under a pretence of trafficking for Books wrote constantly to *Paris*, and *Petticum* was actually Negotiating with that Crown. At my Arrival at *Fontainebleau* in the beginning of *August* 1711, I saw three Letters wrote from Monsieur *Petticum*, to Monsieur *De Torcy*, written as *Petticum* says, by the Order of the Pensionary himself. He invites Monsieur *De Torcy* to renew the Conference so unhappily broke off with *Holland*. He says he is ready to come to *Paris*, or to meet any Person authorized by *France* at *Amiens* or elsewhere. He promises that it shall be more advantageous to *France*, to begin with *Holland* separately; That his most Christian Majesty has only to propose his own Terms, and the States will agree to them. He adds, too truly indeed, that the intestine Divisions in *England* will render any Negotiations with us impracticable, for that one Party will certainly oppose what the other would consent to, how just or reasonable soever. He explains that one of our Parties has a very great Interest in *Holland*: He names them as the Persons most concerned in our Banks and Stocks here: Moneyed Men not well affected to the Ministry here at Home, who are rather inclined to a Land Interest. He insinuates the Emperor's Desire of continuing the War. So evident it is that there was an endeavour to wrest the Negotiation out of the Queen's Hands.

This I take to be the great and true Reason why the Negotiation did not advance between *April* and *August*, and indeed as we had a great Party here, so were there some Ministers in *France* too visibly interested in the *Dutch* Faction. I do not speak it to their reproach, for they thought it more for the Interest of their Country, that a Republick whom they might in time crush, should be now favoured rather than that a Monarchy which they always dreaded, should be secured and enlarged.

Amongst other Arguments this was one at that time made use of, That Great Britain as matters then stood could not begin to treat because we could not own King *Philip*. Whereas the *Dutch* had always used such Civility to that Prince, that it would be more easy and practicable for them to begin, upon which we could not refuse to follow. These things indeed ought to have been forgotten and obliterated

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2 Geo. 1.

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1 Geo. 1.

obliterated in the Peace, but the Opposers of it make it necessary even for the Safety and Honour of the Persons concerned in it that they should be mentioned. Far from designing herein to hurt any Man, and not saying any thing hard upon this Subject, I proceed to (page 4) the Grounds upon which the whole Report is founded, (Viz.) *A supposed Breach of the Grand Alliance on our side.*

Neutri partium fas sit depac cum hoste tradere nisi conjunctim — The Accusation is, *That we treated separately in Violation of the Grand Alliance:* And it is immediately observed, *That the Preliminaries were signed before any thing had been finally concluded for the security of Great Britain.* How then as yet is this Article violated? Or what Reason has any Ally to take it ill? But if any thing had been concluded for the Benefit of *Great Britain*, would this have extenuated the Offence? Not in the least, we ought not it seems to have taken any such Security. The Argument turns both ways, and if the Ministry did or did not stipulate for the Interest of their Country, they are equally culpable.

But if before any Treaty begun, and in order to oblige her Majesty to hear only what the Enemy desired to begin to treat upon, as well for her self as for her Allies, the Enemy offers any thing which when finally concluded may be for the Security of *Great Britain*, shall an *English* Ministry be accused either for hearing what the Enemy would treat upon, or for turning the beginning of this Treaty to the Advantage, or at least to the Security (for this seems to be the objection) of their Country, at the same time they hear all those Advantages proposed in favour of the Allies, that the Queen is obliged by any Stipulation whatsoever to procure for them? Though the Cause were tried at *Franckfort*, or *Amsterdam*, the Ministry must be cleared upon this Point: But in *Westminster-Hall* I will not doubt but that such an endeavour will be adjudged just, honest, laudable, and stand recorded in the Hearts of all true *Britons*, to the lasting Honour of the Persons concerned in it. Let us consider the force of this terrible Article, *neither Parts shall treat (i. e. make a Treaty) without the Consent of the other.* Shall therefore neither Party hear, if the Enemy has a desire to treat at all, and in such a Case shall neither Party have power to communicate to his Ally what the

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2 Geo. 1.

Enemy proposes, or at what time or place the Delegates of all Parties may meet together to confer? Is the Article to be restrained to this Sense? No Trumpet then can ever be sent, no Captive redeemed or Hostage exchanged without the previous Consent of the whole Alliance: Thousands and ten thousands must have perished during this long War in Prison, unhappily added to those slain in the Field. In one word, if we would ever have Peace, we must either send to *France* or *France* to us. The Sea is the Frontier between the two Kingdoms, and it is impossible by any other means for each Nation to know the Sentiments of the other; or else we must be contented to let the Enemy apply to us, and we reciprocally to him by the Intercourse and Mediation of some third Party. What great Disadvantage the Crown and People of *Great Britain* have received from this last Method, and to what dreadful Precipices we were driven by pursuing it, is evident to any Man who reads the preliminary Engagements and Treaties entred upon for six Years past: And if the Accusation against the late Ministry comes originally from the other side the Water, it is a previous Declaration in favour of the Persons concerned. It objects to them only that which would avoid those apparent Inconveniences in which too manifestly their Country had suffered much, and is likely still to suffer more by this mediate and second Hand way of treating: May we not as well make our Bargain, as leave it to be made by our Neighbours, how cordially soever they may manage for us? Are we obliged to trust our Allies in Negotiations of the greatest Consequence, and where God knows we had the deepest Concern, and shall not those Allies trust us? A Child would be ashamed of the Absurdity of such reasoning.

But farther, the Article is not only a Restriction upon us in regard to *Holland*, but it is equally obligatory to all the Allies; and yet the People only named as injured by us are the *Dutch*; whereas every Prince and State concerned in the Alliance have the same Reason of complaint. Now it will easily be granted impracticable that every Motion and Proposal towards a Peace should be transmitted to all: The *Dutch* therefore have a greater right in this Case than the Emperor, or any other Allies, or the Argument is void: At this rate we are not to hear from our Enemies but by the Mouth of a Cannon, and the just

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just Consequence that follows upon this construction is, that all means of Peace are cut off, and *the War to the joy of those that delight in it is entailed upon us for ever.*

Let us consider — First, how we came under these inviolable Obligations, to which these Religious Observers of Treaties would bind us down for ever: And, Secondly, How our Allies have dealt with us in this regard?

The Grand Alliance was a Bargain, and not a very advantageous one for *England*, had it been ever so strictly made good. The Obligations of it were reciprocal. How negligently our Allies kept their part of it for thirteen Years, and how that neglect encreased every Year as it was complained of in the time of Lord *Godolphin's* Administration, promised often to be redressed, till at last by plain Abstracts and Accounts laid before the Parliament, it appeared that the *Dutch* had not complied with one third of what they were by the most solemn Contract to furnish, is evident to the whole Nation, till at last the States very roundly told us, *That they had done all they could, that they were not obliged to act according to the exactness of the Quotas and Contingents agreed to, and that we should force them into a separate Peace if we insisted on those Proportions, or even restrained an open Trade which they carried on with France, (which Trade was disadvantageous to Britain by near a Million Sterling per Annum).*

Thus they performed their Obligations to us. How they acted with the Emperor even in relation to this very grand Alliance, is evident, in that they formally entered since the making it into two Treaties of Partition, signed by the Pensioner *Heinsius* himself, in which they oblige themselves to wage War against the Emperor and his Adherents, in Case he is not satisfied (instead of the whole Monarchy of *Spain*) with the Portions, which without his Knowledge and against his Will, are assigned to him by those Treaties. And as to the Emperor himself during several Campaigns of the last War, though the Allies had near 200,000 Men (of which *England* maintained above half) employed and endeavouring to acquire the Dominion of so great a part of *Europe* and *America* to his Family, he had not of his own Troops 9000 Men in the Field. And which is yet more wonderful, he takes it ill that being at the same time Emperor of *Germany* and Master of

above half *Italy*, he is not likewise King of *Spain* and Master of the *Indies*, tho' the Basis of the grand Alliance is founded on this Principle, that these Dominions shall never be united in the Person of him that shall be Emperor or even King of the *Romans*. He takes this ill of a Queen of *Great Britain*, that contributed effectually to set the Imperial Crown upon his Head, as he himself acknowledged. And he takes it ill too of a Nation that rescued the Empire it self out of the Hands of *France*, and secured it to the Dominion of the *Austrian* Family.

That we may remember how scrupulous all this while our Allies were as to this Point of not treating unless in conjunction with us; and how much they valued any Complaint or Remonstrance which we could make upon this Head, we need not but just look back upon the common and known Occurrences of some Years passed.

In the beginning of the Year 1709, the President *De Rouille* with Passports from the States came to *Antwerp*, and from thence to *Moerdike*, where *Messrs. De Buys* and *Vanderdussen* delegated by the States conferred with him privately; And in this clandestine manner these Deputies continued to act with the French Minister till April, in which Month the Duke of *Marlborough* who had never been admitted to confer with *Rouille*, and had only taken such Reports of the Negotiation as the Pensioner was pleased to give him, came into *England* to give an account thereof to her Majesty. In his Grace's Absence Monsieur *De Torcy* arrived at the *Hague*: The Pensioner advises the Duke thereof by a Letter, and upon this Advise his Grace sets out for the *Hague*. The Conferences continue all the while between the French Minister and the two Dutch Deputies, for neither the Duke of *Marlborough* or Lord *Townsend* had ever yet seen Monsieur *De Rouille*, till he was presented to them 19th May by Monsieur *De Torcy*. The French in these three or four Months made such great Concessions as gave hopes of a good and solid Peace, but these Concessions were still rejected. Prince *Eugene* and the Duke of *Marlborough* very seldom vouchsafed to assist at the Meetings appointed: Nor was it very strange that two great Generals at the Head of 200,000 Men, should not be very fond of quitting the Advantages of those high Stations, for the bare Satisfaction

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2 Geo. 1.

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faction of having their Names printed at the bottom of a Treaty of Peace—— Monsieur *De Torcy* at last returns to *Paris*, having openly declared, above three Weeks before his leaving *Holland*, that the Preliminaries as they were then drawn up, could never be consented to by the King his Master. Notwithstanding all this and the repeated Protestations of that Minister on this Subject, in despite of Fact and Probability, we drew up a mock Negotiation as if already agreed to by *France*, and sent it over to be ratified by the Great Seal of *England*; and to the Wonder as well as the Laughter of all *Europe* we find it formally signed, as agreed by the Imperial, *British*, and *Dutch* Plenipotentiaries; not one word said of the *French* refusing it: which in relation to *England* carried with it just as good Sense as if I should get the Writings engrossed for a Man's Estate, who has said he will have nothing to do with me; or that I should sign a Contract of Marriage with a Woman, who has three Weeks before fled the Country to avoid my Solicitation.

Happy yet had it been for *Britain* if this Proceeding had only proved ridiculous; but how dangerous it was likewise the very Recital of the Articles will demonstrate.

They carry us on to a point of View far beyond what was proposed by the grand Alliance; And whereas we were hitherto obliged to make War only till a reasonable Compensation be obtained for the Emperor, in lieu of his Pretensions to *Spain*, we are now obliged not to lay down our Arms, till the House of *Austria* is put into the entire Possession of the whole *Spanish* Monarchy. If *Peru* or *Mexico* now refuses the Dominions of that Family, our Fleets and our Armies are to go thither to conquer those Kingdoms for his Imperial Majesty. We were at the same time under such Obligations to the Emperor in relation to *Germany*, as might have entailed a War of fifty Years upon us, and an expence of seven Millions each of those Years, in case his Imperial Majesty thought fit to hold us to our Bargain; A third part of our Revenues and Lands of *England* were to have been given with a growing Interest for the prolongation of a War, which it was not in our power to finish; And this too upon no Consideration or Concession to us in the World on the Emperor's part. No little Comtat or Hans-Town ever acted with

such Humility and Submission to the Court of *Vienna*, as the Crown of *Great Britain* did on this occasion: It was all Condescension on our side: The Emperor's Favour was deemed worth another fifty Millions.

And while such peculiar Care was taken in every Article that might be thought to regard the Interest of his Imperial Majesty or the States General, the Protestant Religion, which the late Queen frequently declared she had very much at Heart, was exceedingly neglected in those Preliminaries. The only care that was taken in this behalf as well by our Calvinistical as Catholick Friends, was that the Affair should be referred to the Negotiation of a general Peace, which was indeed leaving it to the Decision of the Emperor the chief Power that opposed it.

In the same Preliminaries we fairly give to the *Dutch* all the Towns in the *Low Countries* to garrison, and all the Revenues of those Countries to maintain their Garrisons.

From this Moment we proceed upon the most unequal as well as most unjust Conditions that ever were imposed on a free People, or even by Conquerors on the vanquished——To continue to fight is thought to be the proper and sole Business of the *English*: We are to sustain all the loss; Strangers are to share all the advantage. And we were never to think of Peace until they should tell us they were weary of the War.——At this Price of our Treasure, our Blood, and indeed of common Sense, we acquired that great pennyworth of Glory, which as Count *Gallas* satyrically told her late Majesty, the Emperor would have bought if he had had Money enough. And in this Situation our old Friends so much famed for emblematic Wit, might again have painted us with *Lions Claws* and *Calves Heads*.

The most melancholy Animadversion yet remains to be made upon these pernicious Preliminaries ratified on our part; never so much as signed or intended to be signed on the part of *France*: That upon Monsieur *De Torcy's* return to *Versailles*, the *French* King sends them to all the Provinces of his Kingdom, shews them to be captious in their tenor, unreasonable as to their demands, impossible for him to comply with, and calculated only to make a Separation between that King and *Spain*. The whole People of *France* with all imaginable Zeal, consent, Clergy as well as Laity, to augment their Taxes; resolve

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universally, whether with reason or not I shall not determine, that the Allies never did intend a Peace, and would fight *pro Aris & focis*, till more reasonable Terms might be obtained: And to shew they were in earnest, they sold their very Plate, raised the Dismes of their Estates, and supplied the King with above one hundred Millions of Livres: The Spaniards at the same time for fear of being dismembered or abused, as they thought they were by these Proceedings, became so inviolably united to the Interest of Philip and his Family, that this Transaction joined to the surprizing effect of the following Campaign, made it utterly impossible that that Prince should, humanly speaking, be ever removed out of the Dominions of Spain, or attacked with any Success in them.

It may be observed, that in the Instructions given this Year (1709) to the Duke of Marlborough and Lord Townsend, they were to declare to the Pensioner of Holland, and such other Members of the State as they thought proper, that no Negotiation of Peace should be entred into with France, till the Preliminaries were first adjusted between her Majesty and the States General. Was the Emperor, the King of Prussia, the Elector of Hanover, or any Prince of the Empire let into this Secret? Nay do not the Instructions expressly say, that this Communication is to be made only to the Pensioner and some of his Favourites? Does there appear in these Instructions that great Tendernefs to all our Allies in general, or that Zeal more particularly for the Emperor's Interest, which flames out with such force at present, as is likely to set the whole Nation on fire?

Thus runs the Instruction, and the Inference from it is very easy. In 1709 the Queen's Plenipotentiaries may not only treat, but conclude with the Pensioner and others of the States, Articles of Peace with the Enemy (exclusive of the rest of the Allies). The Plenipotentiaries are neither to regard, or ask, if these very Gentlemen of Holland have sufficient powers from their Masters to treat. And yet in 1712 the same Queen's whole Council, or a Committee of Council, shall not be thought Qualified to treat with a Minister of France, though he comes instructed with as full Powers as any Minister did or could produce from that Crown; though the Interests of all the Allies were previously taken care of and adjusted as far as the Nature of the

thing would admit, the first time this Minister met the Persons delegated by her Majesty to treat.

Towards the latter end of the Year 1709, the Barrier Treaty was set on Foot: This was contrived, drawn up, and perfected in Holland, signed by seven of the States on their side, among whom was the Pensioner Henslus; and on our side by Lord Townsend only, his Collegue the Lord Marlborough who had more Precaution and Experience for very solid reasons declined to sign it jointly with him.

When this Treaty was sent over and perused by her Majesty's Council, though the whole was generally condemned, yet to keep well with the Dutch, as the Phrase then was, it was thought proper to try to rectify the grossest part of it; by which in one word we were to have had nothing but what we had secured to our selves by our own Laws, and for which we ought not to be indebted to any other People: While the States were to have the *Usu fruit*, and probably the absolute Possession of all the Low Countries.

To redress or conceal the great Disproportion and Enormity of this Treaty, some explanatory Articles were drawn up and sent over to be added to it; but so far were we from being heard on this occasion, that the Treaty was sent back signed without any Alteration: These additional Articles, particularly eight of them of the greatest Importance, being exploded and absolutely rejected.

Any Man who has read that Treaty will reflect to what sad extremities the Crown, the Ministry, and the Nation of Great Britain were reduced. The States without any Restriction or Account shall garison and possess not only what they have already, but what ever they shall acquire during the progress of the War by the confederate Arms: Britain shall, without any Advantage or the least Consideration, assist in the compleating this Bargain with all her Wealth and to the utmost of her Power.

It is observable that when our Ministry offered to stipulate with Holland, that neither of us should enter into a Treaty with France, before the entire Monarchy of Spain was yielded up as a Preliminary, the Dutch refused absolutely to enter into such an Agreement, declaring that their People would never be brought to consent to it; Yet upon the Report made at the Hague by the Dutch Deputies, that the Conferences they had held with the

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2 Geo. 1.

French, had not met with the desired Success, the Imperial Minister declared that the Emperor would not consent to any Partition of the *Spanish* Monarchy. And the next Year he made the same Declaration at *Utrecht*, though the very principle on which the grand Alliance was founded, was, *That a reasonable Compensation should be made to the Emperor in regard to his Pretensions to Spain.*

What is her Majesty to do now? Must she insist on the entire Restitution of the *Spanish* Monarchy to the House of *Austria*, though the *Dutch* will not come into the Proposal? Must not the Queen and her Ministry be released from this Engagement, from which her Allies had so evidently receded? Are the People of *Great Britain* still to be tied down to this hard, this unequal, this impossible Condition; and when the Disposition of Human Affairs in the two succeeding Years had rendered it infinitely more so than it was at the time the *Dutch* made this Refusal? A great Lord in the upper House confessed that the thing was impossible, but still urged that it should be insisted on.

The State of Affairs were such at this time (1712) that as it appeared to be the Advice, so it was really the Interest of the Imperialists to prolong the War; 200,000 Men were fighting for them, of which they did not maintain 10,000; their Dominions were to be extended by a Victory, and the loss of a Battel must have kept us longer in the War. This Children call, *Cross I win, Pile you lose*. If the Allies had the better, the Emperor's Demands had encreased, the best we could have expected was that the Conferences should have been transferred to *Frankfort* or *Baden*. And what Conditions we should have obtained there even as to our Honour, and how the Demands of *England* would have been regarded, or the Protestant Interest sustained, is evident from what has been since done at *Baden*: But turn the Tables, had we lost a Battel, their ends had yet been more effectually gained, *Holland* and *Great Britain* must have renewed and augmented their Forces; The old Argument that the exorbitant power of *France* was not sufficiently abated would have been reviv'd; we should have been again frightened, and must still have gone on in a wild maze of a destructive Land War.

The Proposal of having *Dunkirk* demolished, our Friends rejected without giving us any Reason for their so doing;

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though this was the only Advantage we proposed to our selves, or expected to receive on that side for all the Victories we had gained for them; and for having procured them almost the entire Possession of thirty fine fortified Towns, and of ten Provinces.

Hard is the fate of *Great Britain* if we are bound and condemned to Terms, from which our Allies declare themselves released: If we are obliged to make War for them upon Conditions which they acknowledge their own Subjects will never perform: If the States who will not admit our having of *Dunkirk*, shall be excused and justified, while the Queen's Minister for obtaining it, shall be censured and even impeached.

Dunkirk surely demands our particular Attention; because this Port and *Calais* are so near us, that the Enemy may sail from thence either to the Coasts of *Holland* or *England* in one Tide, and yet nothing is said in favour of its being demolished. Nor would the *Dutch* in either of the two last Wars ever consent to the besieging of it, though we often proposed this Enterprize and offered to do it at our own Expence. The true reason whereof is, they had rather see *Dunkirk* in the Hands of the *French* than the *English*; and would never believe that if we were once possessed of it, we would have consented to the demolishing it.

To proceed: In the beginning of the Year 1710, the *French* Plenipotentiaries (the Marshall *De Uxelles* and the Abbot *De Polignac*) arrived in *Holland*, and were met by *Buys* and *Vanderdussen* at *Maerdyke*. The Conferences held here were from time to time transmitted to the Pensionary at the *Hague*, and some of the Deputies of the States, and by these Persons they were communicated to the Imperial and British Plenipotentiaries. The Conferences at *Gertruydenburg* were carried on all *March* and *April* in the same manner; And when in *May* there appeared some hope that the Negotiation which was in a manner broken off, might be renewed, the Imperial Minister desired to be admitted to the succeeding Conferences: This was over ruled, and the reason given for it was, *That the other Ministers, particularly those of England, might claim the same Privilege.*

What Permission our Ministers had to bear only at second Hand, or what superior Power the Deputies of the States had to confer and act alone with the *French* Plenipotentiaries

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Plenipotentiaries, I cannot determine. And why *Petticum*, who was an Agent only for the Duke of *Holftein*, had the Negotiation sometime trusted to him alone, is yet more astonishing. What appears most plain is, that *we were to make War for the Dutch, and they were to make Peace for us.*

The definitive Answer of the States to the *French* Memorial when their Plenipotentiaries were going away, is a Resolution drawn up by some of their Deputies and communicated to the States only; so sure were they of having us agree to whatever they did. And as the *Dutch* were the sole Managers of this Negotiation, and particularly of its breaking off, it is observable that Jealousies began now to be entertained of them in *England*.——

New Overtures were made in *June*; the Imperial Plenipotentiary renewed his Desire of being admitted, at least to hear what these were and received the like Denial as before. He answered, he had Orders from *Vienna* to be admitted, and sent an Express on this Subject to Prince *Eugene*, who advised him to act on this occasion as the *British* Ministers did: *That the Queen who had contributed so greatly to the War, was contented to trust this Preliminary Negotiation of Peace entirely to the Conduct of the States, and there could be no Harm in his following this good Example.*

Here Mr *Prior's* Defence of himself and the late Ministry abruptly breaks off, either the Residue was lost or suppressed. And it is evident a great part of what we have has been altered and curtailed.

The Day after the Secret Committee of the Commons made their Report, Mr *R. Walpole* the Chairman moved the House to impeach *Matthew Prior*, Esq; and he was thereupon ordered into close Custody, and that no Person should be admitted to see him without leave of the Speaker; And he was one of the Persons excepted out of the Act of Grace in the Year 1717. But I don't find any Impeachment carried up to the Lords against him; On the contrary it appears that he was discharged about two Years after, and retiring to his House at *Down-Hall* to spend the remainder of his Life there, or at the Earl of *Oxford's* Seat at *Wimpole* in *Cambridgeshire*, where he died on the 18th of *December* 1721, according to the Editor of his History; Who relates also that Mr *Prior* was the Son of a Reputable Citizen of *London*, where he was born *July* 21, 1664, which

does not agree with the Register at *Cambridge* (of which the following is an Extract) any more than these Registers do with each other, but leave us in suspense whether Mr *Prior* was the Son of a Gentleman, a Citizen, or whether he was a Native of *Middlesex* or *Dorsetshire*.

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Extracts from the Register of *St John's College*, and from the Register of the University of *Cambridge*.

Matthæus Prior, Middlesexienfis filius Georgij P. Generosi natus infra Winburne, in prædicto Comitatu, atq; literis institutus in Schola libera Westmonasterienfi, sub Magistro Bulby, per triennium; Admissus est Pensionarius (in Coll. Joh.) Aetatis suæ 17. Et quod excurrit, Tutore Magistro Billers, Apr. 2 1683, Regr. Coll. Jo.

Ego Matthæus Prior, Dorcestrenfis, admissus sum in Discipulum pro Sarah Ducissâ Somerset, ex ipsius nominatione, die tertio Aprilis 1683, Regr. Coll. Jo.

Matthæus Prior (Coll. Joh.) Art. Bac. An. 1683, Regr. Acad.

Ego Matthæus Prior, Middlesexienfis, juratus Et admissus sum in perpetuum Socium hujus Collegii pro Doctore Keyton Apr. 5, 1688. Decessore Magistro Roper Regr.

Mr *Prior* was engaged very early in publick Transactions, being Secretary to King *William* and Queen *Mary*, at the celebrated Congress held at the *Hague*, by the Powers confederated against *France* in the Year 1690.

He acted as Secretary to the British Plenipotentiaries also at the Peace of *Ryswick* in the Year 1697, and seems to have had a considerable Share in the Administration at Home, during the remainder of the Reign of King *William*. He was by that Prince constituted one of the Lords Commissioners of Trade and Plantations, for which no Gentleman was better qualified. He sat in the House of Commons in the Parliament which met 10th *February* 1700-1, being Elected for the Borough of *East Grinstead* in *Sussex*.

Her Majesty Queen *Anne* was pleased to constitute Mr *Prior* one of her Plenipotentiaries to treat of a Peace with *France* in the Year 1711, and though he was threatned with an Impeachment for his Conduct in that Negotiation in a succeeding Reign, his Enemies after they had long restrain'd him from his Liberty, being able to fix on nothing that could render this

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this Gentleman liable to censure, thought fit to drop the Prosecution, and suffer him to pass the Remainder of his Life in an elegant Retirement: He continued Fellow

of St John's College in Cambridge to the Day of his Death, having never ventured to launch into the married State.

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2 Geo. I.

A Brief Narrative of the Case and Trial of JOHN PETER ZENGER, Printer of the New-York Weekly Journal. Anno 1734. 6 GEO. II.

John Peter Zenger.

1734.
6 Geo. II.

AS there was but one Printer in the Province of New-York, that printed a publick News Paper, I was in Hopes, if I undertook to publish another, I might make it worth my while; and I soon found my Hopes were not groundless. My first Paper was printed November 5th, 1733, and I continued printing and publishing of them, I thought to the Satisfaction of every Body, till the January following, when the Chief Justice was pleased to animadvert upon the Doctrine of Libels, in a long Charge given in that Term to the Grand Jury, and afterwards on the third Tuesday of October, 1734, was again pleased to charge the Grand Jury in the following Words:

Gentlemen,

I shall conclude with reading a Paragraph or two out of the same Book, concerning Libels; they are arrived to that Height, that they call loudly for your Animadversion; it is high Time to put a Stop to them; For at the rate Things are now carried on, when all Order and Government is endeavoured to be trampled on, Reflections are cast upon Persons of all Degrees; Must not these Things end in Sedition, if not timely prevented? Lenity, you have seen, will not avail, it becomes you then to enquire after the Offenders, that we may in a due Course of Law be enabled to punish them. If you, Gentlemen, do not interpose, consider whether the ill Consequences that may arise from any Disturbance of the publick Peace, may not in part lye at your Door?

Hawkins, in his Chapter of Libels, considers three points. First, *What shall be said to be a Libel.* Secondly, *Who are liable to be punished for it.* Thirdly, *In*

what Manner they are to be punished. Under the first, he says, §. 7. "Nor can there be any Doubt, but that a Writing, which defames a private Person only, is as much a Libel as that which defames Persons intrusted in a publick Capacity, in as much as it manifestly tends to create ill Blood, and to cause a Disturbance of the publick Peace; However, it is certain, that it is a very high Aggravation of a Libel, that it tends to scandalize the Government, by reflecting on those who are entrusted with the Administration of publick Affairs, which does not only endanger the publick Peace, as all other Libels do, by stirring up the Parties immediately concerned in it, to Acts of Revenge, but also has a direct Tendency to breed in the People a dislike of their Governors, and incline them to Faction and Sedition." *As to the second Point he says, §. 10.* "It is certain, not only he who composes or procures another to compose it, but also that he who publishes, or procures another to publish it, are in Danger of being punished for it; and it is said not to be material, whether he who disperses a Libel knew any Thing of the Contents or Effects of it or not; For nothing could be more easy than to publish the most virulent Papers with the greatest Security, if the concealing the Purport of them from an illiterate Publisher, would make him safe in the dispersing them; Also, it has been said, that if he who hath either read a Libel himself, or hath heard it read by another, do afterwards Maliciously read or report any Part of it in the Presence of others, or lend or shew it to another, he is guilty of an unlawful Publication of it. Also, it

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" have been holden, that the Copying of a Libel shall be a conclusive Evidence of the Publication of it, unless the Party can prove, that he delivered it to a Magistrate to examine it, in which Case the Act subsequent is said to explain the Intention precedent. But it seems to be the better Opinion, that he who first writes a Libel, dictated by another, is thereby guilty of Making of it, and consequently punishable for the bare Writing; for it was no Libel till it was reduced to Writing.

' These, Gentlemen, are some of the Offences which are to make Part of your Enquiries; and if any other should arise in the Course of your Proceedings, in which you are at a Loss, or conceive any Doubts, upon your Application here, We will assist and direct you.'

The Grand Jury not indicting me as was expected, the Gentlemen of the Council proceeded to take my Journals into Consideration, and sent the following Message to the general Assembly.

Die Jovis, 3 ho. P. M. 17th of October, 1734.

A Message from the Council by Philip Cortlandt, in these Words, to wit,

That Board having had several of Zenger's New York Weekly Journals laid before them, and other scurrilous Papers, tending to alienate the Affections of the People of the Province from his Majesty's Government, to raise Seditions and Tumults among the People of this Province, and to fill their Minds with a Contempt of His Majesty's Government: And considering the pernicious Consequences that may attend such growing Evils, if not speedily and effectually put a Stop to: And conceiving that the most likely Method to put a Stop to such bold and seditious Practices, to maintain the Dignity of His Majesty's Government, and to preserve the Peace thereof, would be by a Conference between a Committee of this Board, and a Committee of the Assembly; It is therefore ordered, That the Gentlemen of this Board, now Assembled, or any seven of them, be a Committee, to join a Committee of the House of Representatives, in order to confer together, and to examine and enquire into the said Papers, and the Authors and Writers thereof.

Which Message being read.

Ordered, That the Members of this House, or any fourteen of them, do meet a Committee of the Council, at the Time and Place therein mentioned.

Die Veneris, 9 ho. A. M. 18 October, 1734.

' Mr Garretson, from the Committee of this House, reported, That they last Night met the Committee of the Council, on the subject Matter of their Message of Yesterday to this House; and that after several Preliminaries between the said Committees, the Gentlemen of the Council reduced to Writing, what they requested of this House, and delivered the same to the Chairman, who delivered it in at the Table, and being read, is in the Words following.

At a Committee of the Council held the 17th of October 1734.

P R E S E N T.

Mr Clarke.	Mr Harrison.
Dr Colden.	Mr Livingston.
Mr Kennedy.	Mr Chief Justice.
Mr Cortlandt.	Mr Lane.
Mr Horsfanden.	

Gentlemen,

' The Matters we request your Concurrence in, are, That Zenger's Papers, No. 7. 47. 48. 49. which were read, and which we now deliver, be burnt by the common Hangman, as containing in them many Things derogatory of the Dignity of His Majesty's Government, reflecting upon the Legislature, upon the most considerable Persons in the most distinguished Stations in the Province, and tending to raise Seditions and Tumults amongst the People thereof.

' That you concur with us in the Addressing the Governor, to issue his Proclamation, with a Promise of a Reward for the Discovery of the Authors or Writers of these Seditious Libels.

' That you concur with us in an Order for Prosecuting the Printer thereof.

' That you concur with us in an Order to the Magistrates, to exert themselves in the Execution of their Offices, in order to preserve the publick Peace of the Province.

' By Order of the Committee.

Fred. Morris, Cl. Con.

' Mr

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Mr Garretson delivered likewise to the House the several Papers referred to in the said Request. Ordered, That the said Papers be lodged with the Clerk of this House, and that the Consideration thereof, and the said Request, be referred till Tuesday next.

Die Martis, 9 ho. A. M. 22 October, 1734.

The House according to Order proceeded to take into Consideration the Request of a Committee of Council, delivered to a Committee of this House, on the 16th Instant, as likewise of the several Papers therein referred to. And after several Debates upon the subject Matters, it was Ordered, That the said Papers and Request lye on the Table. The Council finding the General Assembly would not do any Thing about it, they sent the following Message to the House.

Die Sabbati, 9 ho. A. M. 2 November, 1734.

A Message from the Council by Mr Livingston, desiring this House to return by him to that Board, the several seditious Journals of Zenger's, No. 7. 47. 48. 49. which were delivered by a Committee of that Board to a Committee of this House, the 17th of October last, together with the Proposals of the Committee of that Board, delivered therewith to a Committee of this House; and then withdrew.

On Tuesday the 5th of November, 1734. the Quarter Sessions for the City of New York began, when the Sheriff delivered to the Court an Order, which was read in these Words.

At a Council held at Fort George, in New-York, the 2d of November, 1734.

PRESENT.

His Excellency William Crosby, Capt. General and Governor in Chief, &c.

Mr Clarke. Mr Harrison. * Dr Colden. Mr Livingston. Mr Kennedy. Mr Chief Justice. Mr Cortlandt. Mr Lane. Mr Horsmanden.

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Whereas by an Order of this Board, of this Day, some of John Peter Zenger's Journals, entitled, The New-York Weekly Journal, containing the freshest Advices, Foreign and Domestick, No. 7. 47. 48. 49. were ordered to be burnt by the Hands of the common Hangman, or Whipper, near the Pillory in this City, on Wednesday the 6th Instant, between the Hours of Eleven and Twelve in the Forenoon, as containing in them many Things tending to Sedition and Faction, to bring his Majesty's Government into Contempt, and to disturb the Peace thereof, and containing in them likewise, not only Reflections upon His Excellency the Governor in particular, the Legislature in general, but also upon the most considerable Persons in the most distinguished Stations in this Province. It is therefore ordered, That the Mayor and Magistrates of this City, do attend at the Burning of the several Papers or Journals aforesaid, Numbered as above mentioned.

Fred. Morris, D. Cl. Con.

To Robert Lutting, Esq; Mayor of the City of New-York, and the rest of the Magistrates for the said City and County.

Upon reading of which Order, the Court forbade the Entering thereof in their Books at that Time, and many of them declared, that if it should be entred, they would have their Protest entred against it.

On Wednesday the 6th of November, the Sheriff of New-York moved the Court of Quarter Sessions, to comply with the said Order, upon which one of the Aldermen offered a Protest, which was read by the Clerk, and approved of by all the Aldermen, either expressly or by not objecting to it, and is as followeth.

Whereas an Order has been served on this Court, in these Words.

[The Order as above inserted.]

And

* N. B. Dr Colden was that Day at Esopus, 90 Miles from New-York, though mentioned as present in Council.

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And whereas this Court conceives, they are only to be commanded by the King's Mandatory Writs, authorized by Law, to which they conceive they have the Right of shewing Cause why they don't obey them, if they believe them improper to be obey'd, or by Orders, which have some known Laws to authorize them; And whereas this Court conceives this order to be no Mandatory Writ warranted by Law, nor knows of no Law that authorizes the making the Order aforesaid; so they think themselves under no Obligation to obey it: Which Obedience, they think, would be in them, an opening a Door for arbitrary Commands, which, when once opened, they know not what dangerous Consequences may attend it. Wherefore this Court conceives itself bound in Duty (for the Preservation of the Rights of this Corporation, and as much as they can, the Liberty of the Prefs, and the People of the Province, since an Assembly of the Province, and several Grand Juries, have refused to meddle with the Papers, when applied to by the Council) to protest against the Order aforesaid, and to forbid all the Members of this Corporation, to pay any Obedience to it, until it be shewn to this Court, that the same is Authorized by some known Law, which they neither know nor believe that it is.

Upon reading of which, it was required of the Honourable Francis Harrison, Recorder of this Corporation, and one of the Members of the Council, (present at making the said Order) to shew by what Law or Authority the said Order was made; upon which he spoke in Support of it, and cited the Case of Doctor Sacheverel's Sermon, which was by the House of Lords ordered to be burnt by the Hands of the Hangman, and that the Mayor and Aldermen of London should attend the doing of it. To which one of the Aldermen answered to this Purpose; That he conceived the Case was no ways parallel, because Doctor Sacheverel, and his Sermon, were impeached by the House of Commons of England, which is the Grand Jury of the Nation, and Representative of the whole People of England: That this their Impeachment

they prosecuted before the House of Lords, the greatest Court of Justice of Britain, and which beyond Memory of Man, has had Cognizance of Things of that Nature; That there Sacheverel had a fair Hearing in Defence of himself and of his Sermon; And after that fair Hearing, he and his Sermon were justly, fairly, and legally condemned; That he had read the Case of Doctor Sacheverel, and thought he could charge his Memory, that the Judgment of the House of Lords in that Case was, That the Mayor and Sheriffs of London and Middlesex only should attend the Burning of the Sermon, and not the Aldermen; and farther he remembered, that the Order upon that Judgment, was only directed to the Sheriffs of London, and not even to the Mayor, who did not attend the doing it: And farther said, that would Mr Recorder shew, that the Governor and Council had such Authority as the House of Lords, and that the Papers ordered to be burnt were in the like manner legally prosecuted and condemned, then the Case of Doctor Sacheverel might be to the Purpose; but without shewing that, it rather proved that a Censure ought not to be pronounced, till a fair Tryal by a competent and legal Authority were first had. Mr Recorder was desired to produce the Books from whence he cited his Authorities, that the Court might judge them themselves, and was told, that if he could produce sufficient Authorities to warrant this Order, they would readily obey it, but otherwise not. Upon which he said, he did not carry his Books about with him. To which it was answered, he might send for them, or order a Constable to fetch them. Upon which he arose, and at the lower End of the Table he mentioned, That Bishop Burnet's Pastoral Letter, was ordered by the House of Lords, to be burnt by the High Bailiff of Westminster; upon which he abruptly went away, without waiting for an Answer, or promising to bring his Books, and did not return sitting the Court.

After Mr Recorder's Departure, it was moved that the Protest should be entered, to which it was answered, that the Protest could not be entered without entering also the Order, and it was not fit to take any

* Bishop Kennet says, That this Letter seemed to be sacrific'd to a poor Jest on the Author's Name [Burnet].
Compleat History of England, Vol. 3. P. 587. 2 Ed. in Lond. 1719.

any Notice of it, and therefore it was proposed that no Notice should be taken in their Books of either, which was unanimously agreed to by the Court.

The Sheriff then moved, that the Court would direct their Whipper to perform the said Order, to which it was answered, That as he was the Officer of the Corporation, they would give no such Order. Soon after which the Court adjourned, and did not attend the Burning of the Papers. Afterwards about Noon, the Sheriff, after reading the Numbers of the several Papers which were ordered to be burnt, delivered them unto the Hands of his own Negroe, and ordered him to put them into the Fire, which he did, at which Mr Recorder, *Jeremiah Dunbar*, Esq; and several of the Officers of the Garrison attended.

On the Lord's Day the 17th of November, 1734, I was taken and imprisoned dy Virtue of a Warrant in these Words,

' At a Council held at Fort George in New-York, the 2d Day of November, 1734.

PRESENT.

His Excellency *William Crosby*, Captain General and Governor in Chief, &c.

Mr <i>Clarke</i> .	Mr <i>Harrison</i> .
Mr <i>Livingston</i> .	Mr <i>Kennedy</i> .
Chief Justice.	Mr <i>Cortlandt</i> .
Mr <i>Lane</i> .	Mr <i>Hofmanden</i> .

' It is ordered that the Sheriff for the City of New-York, do forthwith take and apprehend *John Peter Zenger*, for printing and publishing several Seditious Libels, dispersed throughout his Journals or News Papers, entituled, *The New-York Weekly Journal*, containing the *freest Advice, Foreign and Domestick*; as having in them many Things, tending to raise Factions and Tumults among the People of this Province, inflaming their Minds with Contempt of His Majesty's Government, and greatly disturbing the Peace thereof; and upon his taking the said *John Peter Zenger*, to commit him to the Prison or common Jail of the said City and County.

Fred. Morris, D. Cl. Con.

And being by Virtue of that Warrant so imprisoned in the Jail, I was for several Days denied the use of Pen, Ink and Paper, and the Liberty of Speech with any Person. — Upon my Commitment, some Friends soon got a *Habeas Corpus* to bring me before the Chief Justice, in order to my Discharge, or being bail'd; on the Return whereof, on Wednesday the 20th of November, my Council delivered Exceptions to the Return, and the Chief Justice ordered them to be argued publickly at the City-Hall, on the Saturday following.

On Saturday the 23d of November the said Exceptions came to be argued by *James Alexander* and *William Smith*, of Council for me, and by Mr Attorney General and Mr *Warrel*, of Council against me, in Presence of some Hundreds of the Inhabitants; where my Council (saying the Benefit of Exception to the Illegality of the Warrant) insisted that I might be admitted to reasonable Bail. And to shew that it was my Right to be so, they offered *Magna Charta*, *The Petition of Right*, 3 Car. The *Habeas Corpus Act* of 31 Car. II. which directs the Sum in which Bail is to be taken, to be, 'according to the Quality of the Prisoner, and Nature of the Offence.' Also 2d. *Hawkins*, Cap. 15. §. 5. in these Words, 'But Justices must take Care, that under Pretence of demanding sufficient Security, they do not make so excessive a Demand, as in Effect amounts to a Denial of Bail, for this is looked on as a great Grievance, and is complained of as such, by 1 W. & M. Sess. 2d. by which it was declared, That excessive Bail ought not to be required.' It was also shewn, that the seven Bishops, who in King James the 1st's Time, were charged with the like Crime that I stood charged with, were admitted to Bail on their own Recognizances, the Arch-Bishop in 200 l. and each of the other six in 100 l. a-piece only. Sundry other Authorities and Arguments were produced and insisted on by my Council, to prove my Right to be admitted to moderate Bail, and to such Bail as was in my Power to give; and sundry Parts of History they produced, to shew how much the requiring excessive Bail had been resented by Parliament. And in order to enable the Court to judge what Surety was in my Power to give, I made Affidavit, That (my Debts paid) I was not worth forty Pounds, (the Tools

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of my Trade, and wearing Apparel excepted.)

Some warm Expressions (to say no worse of them) were dropt on this Occasion, sufficiently known and resented by the Auditory, which for my Part I desire may be buried in Oblivion: Upon the whole it was Ordered, *that I might be admitted to Bail, my self in 400 l. with two Sureties, each in 200 l. and that I should be remanded 'till I gave it.* And as this was ten Times more than was in my Power to counter-secure any Person in giving Bail for me, I conceived I could not ask any to become my Bail on these Terms; and therefore I returned to Jail, where I lay until *Tuesday the 28th of January, 1734-5,* being the last Day of that Term; and the Grand Jury having found nothing against me, I expected to have been discharged from my Imprisonment: But my Hopes proved vain; for the Attorney General then charged me by *Information*, for Printing and Publishing Parts of my Journals No. 13. and 23. as being false, scandalous, malicious, and seditious.

To this Information my Council appeared, and offered Exceptions, leaving a Blank for inserting the Judges Commissions, which the Court were of Opinion not to receive 'till those Blanks were filled up. In the succeeding Vacation the Judges gave Copies of their Commissions; and on *Tuesday the 15th of April* last, the first Day of the succeeding Term, my Council offered these Exceptions; which were as follows.

The Attorney General, } On Information
v. } for a Misdemean-
John Peter Zenger. } our.

' Exceptions humbly offered by *John Peter Zenger*, to the Honourable *James De Lancey*, Esq; to judge of this Cause.

' The Defendant comes and prays Hearing of the Commissions, by Virtue of which the Honourable *James De Lancey*, Esq; claims the Power and Authority to judge in this Cause, and it is read to him in these Words;

" *GEORGE* the Second, by the Grace of God, of *Great Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. To our trusty and well beloved *James De Lancey*, Esq; We, reposing special Trust and Confidence in your Integrity, Ability and

" Learning, have assigned, constituted and appointed, and We do by these Presents assign, constitute and appoint you, the said *James De Lancey*, to be Chief Justice in and over our Province of *New-York*, in *America*, in the Room of *Lewis Morris*, Esq; giving and by these Presents granting unto you, full Power and lawfull Authority, to hear, try, and determine all Pleas whatsoever, civil, criminal and mix'd, according to the Laws, Statutes and Customs of our Kingdom of *England*, and the Laws and Usages of our said Province of *New-York*, not being repugnant thereto, and Executions of all Judgments of the said Court to award, and to make such Rules and Orders in the said Court, as may be found convenient and useful, and as near as may be agreeable to the Rules and Orders of Our Courts of King's Bench, Common Pleas, and Exchequer in *England*. To have, hold, and enjoy the said Office or Place of Chief Justice in and over Our said Province, with all and singular the Rights, Privileges, Profits and Advantages, Salaries, Fees and Perquisites unto the said Place belonging, or in any Ways appertaining, in as full and ample Manner as any Person heretofore Chief Justice of our said Province hath held and enjoyed, or of Right ought to have held and enjoyed the same, To you the said *James De Lancey*, Esq; for and during our Will and Pleasure. In Testimony whereof we have caused these Our Letters to be made Patent, and the great Seal of Our Province of *New-York* to be hereunto affixed. Witness our trusty and well beloved *William Crosby*, Esq; Our Captain General and Governor in Chief of Our Provinces of *New-York*, *New-Jersey*, and the Territories thereon depending in *America*, Vice-Admiral of the same, and Colonel in our Army, at Fort George in *New-York*, the twenty first Day of *August*, in the seventh Year of Our Reign, Anno; Domini, 1733.

' Which being read and heard, the said *John Peter Zenger*, by Protestation not confessing nor submitting to the Power of any other Person to judge in this Cause, doth except to the Power of the Honourable *James De Lancey*, Esq; aforesaid, to judge in this Cause, by Virtue of the Commission aforesaid, for these Reasons, viz.

First, For that the Authority of a Judge

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“ Judge of the King’s Bench, in that Part
“ of *Great Britain* called *England*, by
“ which the Cognizance of this Cause is
“ claimed, is by the said Commission
“ granted to the Honourable *James De*
“ *Lancey*, Esq; aforesaid, only during
“ *Pleasure*; whereas that Authority (by a
“ Statute in that Case made and provided)
“ ought to be granted during good Be-
“ haviour.

Secondly, For that by the said Commis-
sion, the Jurisdiction and Authority of a
Justice of the Court of Common Pleas at
Westminster, in that Part of *Great Bri-*
tain called *England*, is granted to the
said *James De Lancey*, Esq; which Ju-
risdiction and Authority, cannot be grant-
ed to, and exercised by, any one of the
Justices of the King’s Bench.

Thirdly, For that the Form of the
said Commission is not founded on nor
warranted by the Common Law, nor
any Statute of *England*, nor of *Great*
Britain, nor any Act of Assembly of
this Colony.

Fourthly, For that it appears by the
Commission aforesaid, that the same is
granted under the Seal of this Colony,
by His Excellency *William Cosby*, Esq;
Governor thereof; and it appears not,
that the same was granted, by and with
the Advice and Consent of His Ma-
jesty’s Council of this Colony; without
which Advice and Consent, His Excel-
lency could not grant the same.

Wherefore, and for many other De-
fects in the said Commission, this
Defendant humbly hopes, that the
Honourable *James De Lancey*, Esq;
will not take Cognizance of this
Cause, by Virtue of the Commission
aforesaid.

Was signed, { *James Alexander.*
William Smith.

The Exceptions to the Commission of
the Honourable *Frederick Phillips*, Esq;
were the same with the foregoing, in-
cluding therein his Commission, which is
in these Words.

“ *GEORGE* the Second, by the
“ Grace of God, of *Great Britain*,
“ *France*, and *Ireland*, King, Defender
“ of the Faith, &c. To Our trusty and
“ well beloved *Frederick Phillips*, Esq;
“ Greeting: Whereas it is Our Care, that
“ Justice be duly administer’d to Our Sub-

jects within Our Province of *New-York*,
“ and Territories thereon depending in
“ *America*; and We, reposing especial
“ Confidence in your Integrity, Ability,
“ and Learning, have assigned, constitut-
“ ed and appointed, and we do by these
“ Presents assign, constitute and appoint
“ you, the said *Frederick Phillips*, to be
“ second Justice of Our Supream Court
“ of Judicature for Our Province of *New*
“ *York*, in the Room of *James De Lan-*
“ *cey*, Esq; giving and granting with you
“ the said *Frederick Phillips*, full Power
“ and Authority, with Our other Justices
“ of Our said Supream Court, to hear,
“ try and determine, all Pleas whatsoever,
“ civil, criminal and mix’d, according to
“ the Laws, Statutes and Customs of Our
“ Kingdom of *England*, and the Laws
“ and Usages of Our said Province of *New*
“ *York*, not being repugnant thereto, and
“ Executions of all Judgments of the
“ said Court to award, and to act and
“ do all Things, which any of our *Justi-*
“ *ces of either Bench, or Baron of the Ex-*
“ *chequer, in Our said Kingdom of Eng-*
“ *land*, may or ought to do; and also to
“ insist, in the making such Rules and
“ Orders in Our said Court, as shall be
“ for the Good and Benefit of Our said
“ Province; and as near as conveniently
“ may be to the Rules and Orders of
“ Our said Courts in Our said Kingdom
“ of *England*: To have, hold and enjoy,
“ the said Office or Place of second
“ Justice of Our said Province of *New-*
“ *York*, together with all and singular
“ the Rights, Privileges, Sallaries, Fees,
“ Perquisites, Profits and Advantages
“ thereto, now or at any Time heretofore
“ belonging, or in any wise of Right ap-
“ pertaining, unto you the said *Frederick*
“ *Phillips*, for and during our *Pleasure*.
“ In Testimony whereof, We have caused
“ these our Letters to be made Patent, and
“ the Great Seal of Our said Province of
“ *New-York* to be hereunto affixed. Wit-
“ ness Our trusty and well beloved *Wil-*
“ *liam Cosby*, Esq; Our Captain General
“ and Governor in Chief of Our Provinces
“ of *New-York*, *New-Jersey*, and Ter-
“ ritories thereon depending in *Ame-*
“ *rica*, Vice Admiral of the same, and
“ Colonel in Our Army, &c. at *Fort*
“ *George* in *New-York*, the twenty
“ first Day of *August*, in the seventh
“ Year of Our Reign, *Annoq; Domini*,
“ 1733.

Fred. Morris, D. Secry.

Tuesday

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Tuesday the 15th of April, 1735.

Mr *Alexander* offered the above Exceptions to the Court, and prayed that they might be filed. Upon this the Chief Justice said to Mr *Alexander* and Mr *Smith*, That they ought well to consider the Consequences of what they offered. To which both answered, That they had well considered what they offered, and all the Consequences. And Mr *Smith* added, that he was well satisfied of the Right of the Subject to take an Exception to the Commission of a Judge, if he thought such Commission illegal, — that he durst venture his Life upon that Point. As to the Validity of the Exceptions then offered, he said, he took that to be a second Point; but was ready to argue them both, if their Honours were pleased to hear him. To which the Chief Justice replied, That he would consider the Exceptions in the Morning; and ordered the Clerk to bring them to him.

Wednesday the 16th of August, 1735.

The Chief Justice delivered one of the Exceptions to the Clerk, and Justice *Phillips* the other, upon which Mr *Smith* arose and asked the Judges, whether their Honours would hear him upon these two Points. First, That the Subject has a Right to take such Exceptions, if they judged the Commission illegal*. Secondly, That the Exceptions tendered were legal and valid. To which the Chief Justice said, That they would neither hear nor allow the Exceptions; for (said he) you thought to have gained a great Deal of Applause and Popularity by opposing this Court, as you did the Court of Exchequer; but you have brought it to that Point, That either We must go from the Bench, or you from the Bar: Therefore We exclude you and Mr *Alexander* from the Bar; and delivered a Paper to the Clerk, and ordered it to be entered, which the Clerk entered accordingly, and returned the Paper to the Chief Justice; after which the Chief Justice ordered the Clerk to read publickly what he had written; an attested Copy whereof follows.

At a Supream Court of Judicature held for the Province of New-York, at the City Hall of the City of New-York, on Wednesday the 16th Day of April, 1735.

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PRESENT.

The Honourable *James De Lancey*, Esq;
Chief Justice.The Honourable *Frederick Phillips*, Esq;
Second Justice.

James *Alexander*, Esq; and William *Smith*, Attornies of the Court, having presumed (notwithstanding they were forewarned by the Court of their Displeasure if they should do it) to sign, and having actually signed, and put into Court, Exceptions, in the Name of John *Peter Zenger*; thereby denying the Legality of the Judges their Commissions; tho' in the usual Form, and the Being of this Supream Court, It is therefore ordered, that for the said Contempt, the said James *Alexander*, and William *Smith*, be excluded from any farther Practice in this Court, and that their Names be struck out of the Roll of Attornies of this Court.

per Cur: James *Lyne*, Cl.

After the Order of the Court was read, Mr *Alexander* asked whether it was the Order of Mr Justice *Phillips* as well as of the Chief Justice? To which both answered, that it was their Order; upon which Mr *Alexander* added, That it was proper to ask that Question, That they might know how to have their Relief: He farther observed to the Court, upon reading of the Order, That they were mistaken in their Wording of it, because the Exceptions were only to their Commissions, and not to the Being of the Court, as is therein alleged; and prayed that the Order might be altered accordingly. The Chief Justice said, they conceived the Exceptions were against the Being of the Court. Both Mr *Alexander* and Mr *Smith* denied that they were, and prayed the Chief Justice to point to the Place that contained such

* This first Point is largely treated on, in the Argument of Van Dam's Council, in Support of their Plea to the Jurisdiction of the supream Court, printed here above a Year before that, from Page 14 to 35 to which no Answer as yet has appeared; which Argument contains also some Part of the Arguments necessary to support the 2d Point.

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such Exceptions; and farther added, That the Court might well exist, though the Commissions of all the Judges were void; which the Chief Justice confessed to be true: And therefore they prayed again that the Order in that Point might be altered; but it was denied.

Then Mr Alexander desired to know, whether they over-ruled or rejected the Exceptions; the Chief Justice said, he did not understand the Difference; to which the said Alexander replied, that if he rejected the Exceptions then they could not appear upon the Proceedings, and in that Case the Defendant was entitled to have them made Part of the Proceedings, by Bill of Exceptions: But if they over-ruled them, then by so doing, they only declared them not sufficient, to hinder them from proceeding by virtue of those Commissions, and the Exceptions would remain as Records of the Court, and ought to be entered on the Record of the Cause as Part of the Proceedings. The Chief Justice said, they must remain upon the File, to warrant what we have done; as to being Part of the Record of the Proceedings in that Cause, he said, you may speak to that Point to morrow.

Friday the 18th of April, 1735.

Mr Alexander signified to the Court, That on Wednesday last their Honours had said, That the Council for Zenger might speak to the Point concerning the *Rejecting and Over-ruling* of Zenger's Exceptions on the Morrow: To which the Chief Justice answered, That he said, *You must get some Person to speak to that Point on the Morrow, not meaning that the said Alexander should speak to it, that being contrary to the Order.* Both Mr Alexander and Mr Smith said, they understood it otherwise.

They both also mentioned, that it was a Doubt, whether by the Words of the Order they were debarred of their Practice as Council, as well as Attornies, whereas they practised in both Capacities? To which the Chief Justice answered, That the Order was plain, *That James Alexander, Esq; and William Smith, were debarred and excluded from their whole Practice at this Bar, and that the Order was intended to bar their acting both as Council and as Attornies, and that it could not be construed otherwise.* And it being asked Mr Philips, Whether he understood the Order so? he answered, that he did.

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Upon this Exclusion of my Council I petitioned the Court to order Council for my Defence, who thereon appointed John Chambers, Esq; who pleaded *Not Guilty* for me to the Information. But as to the Point, *Whether my Exceptions should be part of the Record as was moved by my former Council,* Mr Chambers thought not proper to speak to it; Mr Chambers also moved, that a certain Day in the next Term might be appointed for my Tryal, and for a *Struck Jury*; whereupon my Tryal was ordered to be on Monday the 4th of August, and the Court would consider till the first Day of next Term, whether I should have a Struck Jury or not, and ordered that the Sheriff should in the mean Time, at my Charge, return the Freeholders Book.

At a Supream Court of Judicature held for the Province of New-York, before the Honourable James De Lancey, Esq; Chief Justice of the said Province; and the Honourable Frederick Philips, Esq; second Justice of the said Province.

On Tuesday the 29th of July, 1735, the Court opened, and on Motion of Mr Chambers for a *Struck Jury*, pursuant to the Rule of the preceeding Term, the Court were of Opinion, that I was entitled to have a *Struck Jury*; and that Evening at five of the Clock, some of my Friends attended the Clerk, for striking the Jury; when to their Surprize, the Clerk instead of producing the Freeholders Book, to strike the Jury out of it, in their Presence as usual, he produced a List of 48 Persons, who, he said he had taken out of the Freeholders Book; My Friends told him, that a great Number of these Persons were not Freeholders, that others were Persons holding Commissions and Office at the Governour's Pleasure, that others were of the late displaced Magistrates of this City, who must be supposed to have Resentment against me, for what I had printed concerning them; That others were the Governor's Baker, Taylor, Shoemaker, Candlemaker, Joiner, &c. that as to the few indifferent Men that were upon that List, they had Reason to believe (as they had heard) that Mr Attorney had a List of them, to strike them out; and therefore requested that he would either bring the Freeholders Book, and choose out of it 48 unexceptionable Men in their Presence, as usual; or else, that he would hear their Objections particularly to

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the List he offered, and that he would put impartial Men in the Place of those against whom they could shew just Objections. Notwithstanding this, the Clerk refused to strike the Jury out of the Freeholders Book, and refused to hear any Objections to the Persons on his List, but told my Friends, if any Objections they had to any Persons, they might strike those Persons out; to which they answered, there would not remain a Jury, if they struck out all the exceptionable Men, and according to the Custom, they had only a Right to strike out 12.

But finding no Arguments could prevail with the Clerk to hear their Objections to his List, nor to strike the Jury as usual, Mr Chambers told him, he must apply to the Court, which the next Morning he did, and the Court upon his Motion, Ordered, That the 48 should be struck out of the Freeholders Book as usual, in the Presence of the Parties, and that the Clerk should hear Objections to Persons proposed to be of the 48, and allow of such Exceptions as were just. In Pursuance of that Order, a Jury was that Evening struck, to the Satisfaction of both Parties, tho' my Friends and Council insisted on no Objections but want of Freehold; and though they did not insist, that Mr Attorney General (who was assisted by Mr Blagge,) should shew any particular Cause against any Person he disliked, he acquiesced that any Person he disliked should be left out of the 48.

Before James De Lancey, Esq; Chief Justice of the Province of New-York, and Frederick Philipse, second Judge, came on my Tryal, on the fourth Day of August, 1735, upon an Information for printing and publishing two News Papers, which were called Libels against our Governor and his Administration.

The Defendant John Peter Zenger being called, appeared,

And the Sheriff returned his Venire for the Tryal of the said Cause.

Mr Chambers of Council for the Defendant, I humbly move Your Honours that we may have Justice done by the Sheriff, and that he may return the Names of the Jurors in the same Order as they were struck.

Chief Justice. How is that? Are they not so returned?

Mr Ch. No, they are not: For some of the Names that were last set down in the Pannel, are now placed first.

Chief Justice. Make out that, and you shall be righted.

Mr Ch. I have a Copy of the Pannel in my Hand, as the Jurors were struck, and if the Clerk will produce the Original signed by Mr Attorney and my self, Your Honour will see our Complaint is just.

Chief Justice. Clerk, is it so? Look upon that Copy; is it a true Copy of the Pannel as it was struck?

Clerk. Yes, I believe it is.

Chief Justice. How came the Names of the Jurors to be misplaced in the Pannel annexed to the Venire?

Sheriff. I have returned the Jurors in the same Order in which the Clerk gave them to me.

Chief Justice. Let the Names of the Jurors be ranged in the Order they were struck, agreeable to the Copy here in Court.

Which was done accordingly. And the Jury, whose Names were as follows, were called and sworn.

Hermanus Rutgers, Stanly Holmes, Edward Man, John Bell, Samuel Weaver, Andries Marsbalk, Egbert van Borson, Thomas Hunt, Form. Benjamin Hildreth, Abraham Keteltas, John Goelet, Hercules Wendover.

Mr Attorney General opened the Information, which was as follows,

Mr Attorney. May it please Your Honours, and you Gentlemen of the Jury; the Information now before the Court, and to which the Defendant Zenger has pleaded Not Guilty, is an Information for printing and publishing a False, Scandalous and Seditious Libel, in which his Excellency the Governor of this Province, who is the King's immediate Representative here, is greatly and unjustly scandalized, as a Person that has no Regard to Law nor Justice: with much more, as will appear upon reading the Information. This of Libelling is what has always been discouraged as a Thing that tends to create Differences among Men, ill Blood among the People, and oftentimes great Bloodshed between the Party Libelling and the Party Libelled. There can be no Doubt but you Gentlemen of the Jury will have the same ill Opinion of such Practices, as the Judges have always shewn upon such Occasions: But I shall say no more at this Time, until you hear the Information, which is as follows.

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New-York, Supream Court.
Of the Term of *January*, in the
Eighth Year of the Reign of our
Sovereign Lord King *GEORGE*
the second, &c.

New-York, ss. **B**E it remembred,
That *Richard*
Bradley, Esq; Attorney General of Our
Sovereign Lord the King, for the Pro-
vince of *New-York*, who for Our said
Lord the King in this Part prosecutes,
in his own proper Person comes here
into the Court of Our said Lord the
King, and for Our said Lord the King
gives the Court here to understand, and
be informed, That *John Peter Zenger*,
late of the City of *New-York*, Printer,
(being a seditious Person, and frequent
Printer and Publisher of false News
and seditious Libels, and wickedly and
maliciously devising the Government of
Our said Lord the King of this His Ma-
jesty's Province of *New-York*, under the
Administration of His Excellency *Wil-*
liam Cosby, Esq; Captain General and
Governor in Chief of the said Province,
to traduce, scandalize and vilify, and
His Excellency the said Governor, and
the Ministers and Officers of our said
Lord the King of and for the said Pro-
vince to bring into Suspicion and the ill
Opinion of the Subjects of Our said
Lord the King residing within the said
Province) the twenty eighth Day of
January, in the seventh Year of the
Reign of Our Sovereign Lord *George*
the second, by the Grace of God of
Great Britain, France, and Ireland,
King, Defender of the Faith, &c. at
the City of *New-York*, did falsly, se-
ditiously and scandalously print and pub-
lish, and cause to be printed and publish-
ed, a certain false, malicious, seditious,
scandalous Libel, entitled, *The New-York*
Weekly Journal, containing the freshest
Advices Foreign and Domestick; in which
Libel (of and concerning His Excellency
the said Governor, and the Ministers and
Officers of Our said Lord the King, of
and for the said Province) among other
Things therein contained are these Words,
"Your Appearance in Print at last gives
a Pleasure to many, though most wish
you had come fairly into the open Field,
and not appeared behind Retrenchments
made of the supposed Laws against Li-
belling, and of what other Men have
said and done before; these Retrench-
ments, Gentlemen, may soon be shewn

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"to you and all Men to be weak, and to
have neither Law nor Reason for their
Foundation, so cannot long stand you
in stead: Therefore, you had much
better as yet leave them, and come to
what the People of this City and Pro-
vince (the City and Province of *New-*
York meaning) think are the Points in
Question (to wit) They (the People of
the City and Province of *New-York*
meaning) think as Matters now stand,
that their Liberties and Properties are
precarious, and that Slavery is like to be
entailed on them and their Posterity, if
some past Things be not amended; and this
they collect from many past Proceedings."
(Meaning many the past Proceedings of
His Excellency the said Governour,
and of the Ministers and Officers of our
said Lord the King, of, and for the said
Province.) And the said Attorney Ge-
neral of our said Lord the King, for our
said Lord the King, likewise gives the
Court here to understand and be infor-
med, that the said *John Peter Zenger*
afterwards (to wit) the eighth Day of *A-*
pril, in the seventh Year of the Reign of
our said Lord the King, at the City of
New-York aforesaid, did falsely, sediti-
ously and scandalously print and publish,
and cause to be printed and published,
another false, malicious, seditious and
scandalous Libel, entitled, *The New-York*
Weekly Journal, containing the freshest
Advices foreign and domestick; in which
Libel, (of, and concerning the Govern-
ment of the said Province of *New-York*,
and of, and concerning his Excellency
the said Governor, and the Ministers
and Officers of our said Lord the King,
of, and for the said Province) among
other Things therein contained, are these
Words, "One of our Neighbours (one of
the Inhabitants of *New-Jersey* meaning)
being in Company, observing the Strangers
(some of the Inhabitants of *New-York*
meaning) full of Complaints, endeavou-
red to persuade them to remove into *Jersey*;
to which it was replied, that would be
leaping out of the Frying Pan into the
Fire; for, says he, we both are under the
same Governor, (his Excellency the said
Governour meaning) and your Assembly
have shewn with a Witness what is to be
expected from them; one that was then
moving to *Pensilvania* (meaning one
that was then removing from *New-York*,
with Intent to reside at *Pensilvania*) to
which Place it is reported several consi-
derable Men are removing (from *New-*
York

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“York meaning) expressed in Terms very
 “moving, much Concern for the Circum-
 “stances of New-York (the bad Circum-
 “stances of the Province and People
 “of New-York meaning) seemed to think
 “them very much owing to the Influence
 “that some Men (whom he called Tools)
 “had in the Administration (meaning the
 “Administration of Government of the
 “said Province of New-York) said he was
 “now going from them, and was not to be
 “hurt by any Measures they should take,
 “but could not help having some Concern
 “for the Welfare of his Country Men, and
 “should be glad to hear that the Assembly
 “(meaning the General Assembly of the
 “Province of New-York) would exert them-
 “selves as became them, by shewing that
 “they have the Interest of their Country
 “more at Heart, than the Gratification of
 “any private View of any of their Mem-
 “bers, or being at all affected by the Smiles
 “or Frowns of a Governor, (his Excel-
 “lency the present Governor meaning)
 “both which ought equally to be despised,
 “when the Interest of their Country is at
 “Stake. You, says he, complain of the
 “Lawyers, but I think the Law itself is at
 “an End. WE (the People of the Pro-
 “vince of New-York meaning) SEE MENS
 “DEEDS DESTROYED, JUDGES ARBI-
 “TRARILY DISPLACED, NEW COURTS
 “ERECTED, WITHOUT CONSENT OF
 “THE LEGISLATURE (within the Pro-
 “vince of New-York meaning) BY WHICH
 “IT SEEMS TO ME, TRYALS BY JU-
 “RIES ARE TAKEN AWAY WHEN A GO-
 “VERNOR PLEASES, (his Excellency the
 “said Governor meaning) MEN OF
 “KNOWN ESTATES DENYED THEIR
 “VOTES, CONTRARY TO THE RECEI-
 “VED PRACTICE, THE BEST EXPOSI-
 “TOR OF ANY LAW: Who is then in
 “that Province (meaning the Province of
 “New-York,) that call (can call meaning)
 “any Thing his own, or enjoy any Libery
 “(Liberty meaning) longer than those in
 “the Administration (meaning the Admi-
 “nistration of Government of the said
 “Province of New-York) will condescend
 “to let them do it, for which Reason I have
 “left it, (the Province of New-York mea-
 “ning) as I believe more will. To the
 “great Disturbance of the Peace of the
 “said Province of New-York, to the great
 “Scandal of our said Lord the King, of
 “his Excellency the said Governor, and of
 “all others concern’d in the Administrati-
 “on of the Government of the said Pro-
 “vince, and against the Peace of our So-

vereign Lord the King, his Crown and
 ‘Dignity, &c. Whereupon the said At-
 ‘torney General of our said Lord the King,
 ‘for our said Lord the King, prays the
 ‘Advisement of the Court here, in the
 ‘Premises, and the due Process of the
 ‘Law, against him the said John Peter
 ‘Zenger, in this Part to be done, to an-
 ‘swer to our said Lord the King of, and
 ‘in the Premises, &c.

‘R. Bradley, Attorney General.

To this Information the Defendant has
 pleaded Not Guilty, and we are ready to
 prove it.

[Mr Chambers has not been pleased to fa-
 vour me with his Notes, so I cannot,
 for Fear of doing him Injustice, pretend
 to set down his Argument: But here
 Mr Chambers set forth very clearly the
 Nature of a Libel, the great Allowances
 that ought to be made for what Men
 speak or write, That in all Libels there
 must be some particular Persons so clear-
 ly pointed out, that no Doubt must
 remain about who is meant; That he
 was in Hopes Mr Attorney would fail
 in his Proof, as to this Point; and there-
 fore desired that he would go on to ex-
 amine his Witnesses.]

Then Mr Hamilton, who at the Re-
 quest of some of my Friends, was so kind
 as to come from Philadelphia to assist me
 on the Tryal, spoke.

Mr Hamilton. May it please your Ho-
 nour; I am concerned in this Cause on
 the Part of Mr Zenger the Defendant. The
 Information against my Client was sent
 me, a few Days before I left Home with
 some Instructions to let me know how far
 I might rely upon the Truth of those
 Parts of the Papers set forth in the Infor-
 mation, and which are said to be libellous.
 And tho’ I am perfectly of the Opinion
 with the Gentleman who has just now
 spoke on the same Side with me, as to the
 common Course of Proceedings, I mean
 in putting Mr Attorney upon proving,
 that my Client printed and published those
 Papers mentioned in the Information; yet
 I cannot think it proper for me (without
 doing Violence to my own Principles) to
 deny the Publication of a Complaint,
 which I think is the Right of every free-
 born Subject to make, when the Matters
 so published can be supported with Truth;
 and therefore I’ll save Mr Attorney the
 Trouble

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Trouble of Examining his Witnesses to that Point; and I do (for my Client) confess, that he both printed and published the two News Papers set forth in the Information, and I hope in so doing he has committed no Crime.

Mr Attorney. Then if Your Honour pleases, since *Mr Hamilton* has confessed the Fact, I think our Witnesses may be discharged; we have no farther Occasion for them.

Mr Hamilton. If you brought them here, only to prove the Printing and Publishing of these News Papers, we have acknowledged that, and shall abide by it.

[Here my Journeyman and two Sons (with several others *subpœna'd* by *Mr Attorney*, to give Evidence against me) were discharged, and there was Silence in the Court for some Time.]

Mr Chief Justice. Well *Mr Attorney*, will you proceed?

Mr Attorney. Indeed, Sir, as *Mr Hamilton* has confessed the Printing and Publishing these Libels, I think the Jury must find a Verdict for the King; for supposing they were true, the Law says that they are not the less libellous for that; nay indeed the Law says, their being true is an Aggravation of the Crime.

Mr Hamilton. Not so neither, *Mr Attorney*, there are two Words to that Bargain. I hope it is not our bare Printing and Publishing a Paper, that will make it a Libel: You will have something more to do, before you make my Client a Libeller; for the Words themselves must be libellous, that is, *false, scandalous, and seditious*, or else we are not guilty.

[As *Mr Attorney* has not been pleased to favour us with his Argument, which he read, or with the Notes of it, we cannot take upon us to set down his Words, but only to shew the Book Cases he cited, and the General Scope of his Argument, which he drew from those Authorities. He observed upon the Excellency, as well as Use of Government, and the great Regard and Reverence which had been constantly paid to it, both under the Law and the Gospel. That by Government we were protected in our Lives, Religion and Properties; and that for these Reasons, great Care had always been taken to prevent every Thing that might tend to scandalize Magistrates, and others con-

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cerned in the Administration of the Government, especially the supreme Magistrate. And that there were many Instances of very severe Judgments, and of Punishments inflicted upon such as had attempted to bring the Government into Contempt; by publishing false and scurrilous Libels against it, or by speaking evil and scandalous Words of Men in Authority; to the great Disturbance of the publick Peace. And to support this, he cited, (*5 Coke* 121. suppose it should be 125.) *Wood's Instit.* 430. 2 *Lilly* 168. 1 *Hawkins* 73. 11. 6. From these Books he insisted, that a Libel was a malicious Defamation of any Person, expressed either in Printing or Writing, Signs or Pictures, to asperse the Reputation of one that is alive, or the Memory of one that is dead; If he is a private Man, the Libeller deserves a severe Punishment, but if it is against a Magistrate or other publick Person, it is a greater Offence; for this concerns not only the Breach of the Peace, but the Scandal of the Government; For what greater Scandal of Government can there be, than to have corrupt or wicked Magistrates to be appointed by the King, to govern his Subjects under him? And a greater Imputation to the State cannot be, than to suffer such corrupt Men to sit in the sacred Seat of Justice, or to have any Meddling in, or concerning the Administration of Justice: And from the same Books *Mr Attorney* insisted, that whether the Person defamed is a private Man or a Magistrate, whether living or dead, whether the Libel is true or false, or if the Party against whom it is made is of good or evil Fame, it is nevertheless a Libel. For in a settled State of Government, the Party grieved ought to complain for every Injury done him, in the ordinary Course of the Law. And as to it's Publication, the Law had taken so great Care of Mens Reputations, that if one maliciously repeats it, or signs it, in the Presence of another, or deliver the Libel or a Copy of it over, to scandalize the Party, he is to be punished as a Publisher of a Libel. He said it was likewise evident, that Libelling was an Offence against the Law of God. Acts xxiii. 5. *Then said Paul, I wist not, Brethren, that he was the High-Priest: For it is written, Thou shalt not speak evil of the Ruler of the People.* 2 Pet.

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x. 11. Despise Government, presumptuous are they, self-willed, they are not afraid to speak evil of Dignities, &c. He then insisted that it was clear, both by the Law of God and Man, That it was a very great Offence to speak evil of, or to revile those in Authority over us; and that Mr Zenger had offended in a most notorious and gross Manner, in scandalizing His Excellency our Governor, who is the King's immediate Representative, and the supreme Magistrate of this Province: For can there be any Thing more scandalous said of a Governor than what is published in those Papers? Nay, not only the Governor, but both the Council and Assembly are scandalized; for there it is plainly said, *That as Matters now stand, their Liberties and Properties are precarious, and that Slavery is like to be entailed on them and their Posterity.* And then again Mr Zenger says, *The Assembly ought to despise the Smiles or Frowns of a Governor; That he thinks the Law is at an End; That we see Mens Deeds destroyed, Judges arbitrarily displaced, new Courts erected, without Consent of the Legislature; And, That it seems Tryals by Juries are taken away when a Governor pleases; That none can call any Thing their own, longer than those in the Administration will condescend to let them do it.* —

And Mr Attorney added, That he did not know what could be said in Defence of a Man that had so notoriously scandalized the Governor and principal Magistrates and Officers of the Government, by charging them with depriving the People of their Rights and Liberties, and taking away Tryals by Juries, and in short, putting an End to the Law itself. — If this was not a Libel, he said, he did not know what was one. Such Persons as will take these Liberties with Governors and Magistrates, he thought, ought to suffer for stirring up Sedition and Discontent among the People. And concluded by saying, that the Government had been very much traduced and exposed by Mr Zenger, before he was taken Notice of; that at last it was the Opinion of the Governor and Council, that he ought not to be suffered to go on, to disturb the Peace of the Government; by publishing such Libels against the Governor, and the chief Persons in the Government; and therefore they had directed this

Prosecution, to put a Stop to this scandalous and wicked Practice, of libelling and defaming His Majesty's Government and disturbing His Majesty's Peace.]

Mr Chambers then summ'd up to the Jury, observing with great Strength of Reason on Mr Attorney's Defect of Proof, that the Papers in the Information were False, Malicious or Seditious, which was incumbent on him to prove to the Jury, and without which they could not on their Oath say, That they were so, as charged.]

Mr Hamilton. May it please Your Honour: I agree with Mr Attorney, that Government is a sacred Thing, but I differ very widely from him when he would insinuate, that the just Complaints of a Number of Men, who suffer under a bad Administration, is libelling that Administration. Had I believed that to be Law, I should not have given the Court the Trouble of hearing any Thing that I could say in this Cause. I own, when I read the Information, I had not the Art to find out (without the Help of Mr Attorney's Innuendo's) that the Governor was the Person meant in every Period of that News Paper; and I was inclined to believe, that they were wrote by some, who from an extraordinary Zeal for Liberty, had misconstrued the Conduct of some Persons in Authority into Crimes; and that Mr Attorney out of his too great Zeal for Power, had exhibited this Information, to correct the Indiscretion of my Client; and at the same Time, to shew his Superiors the great Concern he had, lest they should be treated with any undue Freedom. But from what Mr Attorney has just now said, *to wit*, That this Prosecution was directed by the Governor and Council, and from the extraordinary Appearance of People of all Conditions, which I observe in Court on this occasion, I have Reason to think, that those in the Administration have by this Prosecution something more in View, and that the People believe they have a good deal more at Stake than I apprehend: And therefore, as it is become my Duty, to be both plain and particular in this Cause, I beg Leave to bespeak the Patience of the Court.

I was in hopes, as that terrible Court, where those dreadful Judgments were given, and that Law established, which Mr Attorney has produced for Authorities to support this Cause, was long ago laid aside, as the most dangerous Court to the

Liberties

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Liberties of the People of England that ever was known in that Kingdom; that Mr Attorney knowing this, would not have attempted to set up a Star-Chamber here, nor to make their Judgments a Precedent to us: For it is well known, that what would have been judg'd Treason in those Days for a Man to speak, I think, has since not only been practis'd as lawful, but the contrary Doctrine has been held to be Law.

In *Brewster's Case*, for Printing, *That the Subjects might defend their Rights and Liberties by Arms, in case the King should go about to destroy them*, he was told by the Chief Justice that it was a great Mercy, he was not proceeded against for his Life; for that to say, the King could be resisted by Arms in any Case whatsoever, was express Treason. And yet we see since that Time, Dr *Sacheverel* was sentenced in the highest Court of Great Britain, for saying, *That such a Resistance was not lawful*. Besides, as Times have made very great Changes in the Laws of England, so in my Opinion there is good Reason that Places should do so too.

Is it not surprizing to see a Subject, upon his receiving a Commission from the King to be a Governor of a Colony in America, immediately imagining himself to be vested with all the Prerogatives belonging to the sacred Person of his Prince? And which is yet more astonishing, to see that a People can be so wild as to allow of and acknowledge those Prerogatives and Exemptions, even to their own Destruction? Is it so hard a Matter to distinguish between the Majesty of our Sovereign, and the Power of a Governor of the Plantations? Is not this making very free with our Prince, to apply that Regard, Obedience and Allegiance to a Subject which is due only to our Sovereign? And yet in all the Cases Mr Attorney has cited, to shew the Duty and Obedience we owe to the Supreme Magistrate, it is the King that is there meant and understood, though Mr Attorney is pleas'd to urge them as Authorities to prove the Heinousness of Mr *Zenger's* Offence against the Governor of New-York. The several Plantations are compared to so many large Corporations, and perhaps not improperly; and can any one give an Instance, that the Mayor or Head of a Corporation ever put in a Claim to the sacred Rights of Majesty? Let us not (while we are pretending to pay a great Regard to our Prince and His Peace) make bold to transfer that Allegiance to a

Subject, which we owe to our King only. What strange Doctrine is it, to press every Thing for Law here which is so in England? I believe we should not think it a Favour, at present at least, to establish this Practice. In England so great a Regard and Reverence is had to the Judges, * that if any Man strikes another in *Westminster-Hall*, while the Judges are sitting he shall lose his Right-Hand, and forfeit his Lands and Goods for so doing. And though the Judges here claim all the Powers and Authorities within this Government, that a Court of King's Bench has in England, yet I believe Mr Attorney will scarcely say, that such a Punishment could be legally inflicted on a Man for committing such an Offence, in the Presence of the Judges sitting in any Court within the Province of New-York. The Reason is obvious; a Quarrel or Riot in New-York cannot possibly be attended with those dangerous Consequences that it might in *Westminster-Hall*; nor (I hope) will it be alledged, that any Misbehaviour to a Governor in the Plantation will, or ought to be judg'd of or punished, as a like Undutifulness would be to our Sovereign. From all which, I hope Mr Attorney will not think it proper to apply his Law-Cases (to support the Cause of his Governor) which have only been judg'd, where the King's Safety and Honour was concerned. It will not be denied but that a Freeholder in the Province of New-York has as good a Right to the sole and separate Use of his Lands, as a Freeholder in England, who has a Right to bring an Action of Trespass against his Neighbour, for suffering his Horse or Cow to come and feed upon his Lands, or eat his Corn, whether inclosed or not inclosed; and yet I believe it would be looked upon as a strange Attempt for one Man here to bring an Action against another, whose Cattel and Horses feed upon his Grounds not inclosed, or indeed for eating and treading down his Corn, if that were not inclosed. Numberless are the Instances of this kind that might be given, to shew, that what is good Law at one Time, and in one Place, is not so at another Time, and in another Place; so that I think the Law seems to expect, that in these Parts of the World, Men should take care, by a good Fence, to preserve their Property from the Injury of unruly Beasts. And perhaps there may be a good Reason why Men should take the same Care, to make an honest and upright Conduct, a Fence

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6 Geo. II.

3 C. Inst.
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6 Geo. II.

Fence and Security against the Injury of unruly Tongues.

Mr Attorney. I don't know what the Gentleman means, by comparing Cafes of Freeholders in *England* with the Freeholders here. What has this Case to do with Actions of Trespasses, or Men's Fencing their Ground? The Case before the Court is, whether Mr Zenger is guilty of Libelling his Excellency the Governor of *New-York*, and indeed the whole Administration of the Government? Mr Hamilton has confessed the Printing and Publishing, and I think nothing is plainer, than that the Words in the Information are *scandalous, and tend to Sedition, and to disquiet the Minds of the People of this Province*. And if such Papers are not Libels, I think it may be said, there can be no such Thing as a Libel.

Mr Hamilton. May it please your Honour, I cannot agree with Mr Attorney; for though I freely acknowledge that there are such Things as Libels, yet I must insist at the same time, that what my Client is charged with, is not a Libel; and I observed just now, that Mr Attorney, in defining a Libel, made use of the Words, *scandalous, seditious, and tend to disquiet the People*; but (whether with Design, or not, I will not say) he omitted the Word *false*.

Mr Attorney. I think I did not omit the Word *false*: But it has been said already, that it may be a Libel, notwithstanding it may be true.

Mr Hamilton. In this I must still differ with Mr Attorney; for I depend upon it, we are to be tried upon this Information now before the Court and Jury, and to which we have pleaded *Not Guilty*, and by it we are charged with Printing and Publishing a certain *false, malicious, seditious and scandalous Libel*. This Word *false* must have some Meaning, or else how came it there? I hope Mr Attorney will not say he put it there by Chance, and I am of Opinion his Information would not be good without it. But to shew that it is the principal Thing, which, in my Opinion makes a Libel, I put the Case the Information had been for Printing and Publishing a certain *true* Libel, would that be the same Thing? Or could Mr Attorney support such an Information by any Precedent in the *English* Law? No, the Falshood makes the Scandal, and both make the Libel. And to shew the Court that I am in good Earnest, and to save the Court's Time, and Mr Attorney's

Trouble, I will agree, that if he can prove the Facts charged upon us to be *false*, I'll own them to be *scandalous, seditious, and a Libel*. So the Work seems now to be pretty much shortned, and Mr Attorney has now only to prove the Words *false*, in order to make us Guilty.

Mr Attorney. We have nothing to prove; you have confessed the Printing and Publishing; but if it is necessary (as I insist it is not) how can we prove a Negative? But I hope some Regard will be had to the Authorities that have been produced; and that supposing all the Words to be true, yet that will not help them; that Chief Justice Holt, in his Charge to the Jury, in the Case of *Tutchin*, made no Distinction, whether *Tutchin's* Papers were *true* or *false*; and as Chief Justice Holt has made no Distinction in that Case, so none ought to be made here; nor can it be shewn in all that Case, there was any Question made about their being *false* or *true*.

Mr Hamilton. I did expect to hear, that a Negative cannot be proved; but every-body knows there are many Exceptions to that general Rule: For if a Man is charged with killing another, or stealing his Neighbour's Horse; if he is innocent in the one Case, he may prove the Man said to be killed to be really alive; and the Horse said to be stoln, never to have been out of his Master's Stable, &c. and this I think is proving a Negative. But we will save Mr Attorney the Trouble of proving a Negative, and take the *Onus Probandi* upon ourselves, and prove those very Papers that are called Libels to be *true*.

Mr Chief Justice. You cannot be admitted, Mr Hamilton, to give the Truth of a Libel in Evidence. A Libel is not to be justified; for it is nevertheless a Libel that it is *true*.

Mr Hamilton. I am sorry the Court has so soon resolved upon that Piece of Law; I expected first to have been heard to that Point. I have not in all my Reading met with an Authority that says, we cannot be admitted to give the Truth in Evidence, upon an Information for a Libel.

Mr Chief Justice. The Law is clear, That you cannot justify a Libel.

Mr Hamilton. I own that, may it please your Honour, to be so; but with Submission I must say, and the Word, *justified* there, to be a justification by Plea, as it is in the Case upon an Indictment for Murder,

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6 Geo. II.

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Murder, or an *Affault and Battery*; there the Prisoner cannot justify, but plead, *Not Guilty*: Yet it will not be denied but he may, and always is admitted to give the Truth of the Fact, or any other Matter in Evidence, which goes to his Acquittal; as in *Murder* he may prove it was in Defence of his Life, his House, &c. and in *Affault and Battery*, he may give in Evidence, that the other Party struck first, and in both Cases he will be acquitted. And in this Sense I understand the Word *justify*, when applied to the Case before the Court.

Mr Chief Justice. I pray shew that you can give the Truth of a Libel in Evidence.

Mr Hamilton. I am ready, both from what I understand to be the Authorities in the Case, and from the Reason of the Thing, to shew that we may lawfully do so. But here I beg leave to observe, That Informations for Libels is a Child, if not born, yet nursed up and brought to full Maturity in the Court of Star-Chamber.

Mr Chief Justice. Mr Hamilton, you'll find yourself mistaken; for in *Coke's Institutes* you'll find Informations for Libels, long before the Court of Star-Chamber.

Mr Hamilton. I thank your Honour; that is an Authority I did propose to speak to by and by: But as you have mentioned it, I'll read that Authority now. I think it is in the 3 Co. Inst. under Title *Libel*; it is in the Case of *John de Northampton*, for a Letter wrote to *Robert de Ferrers*, one of the King's Privy-Council, * concerning Sir *William Scot*, Chief Justice, and his Fellows; but it does not appear to have been upon Information; and I have good Grounds to say it was upon Indictment, as was the Case of *Adam de Ravensworth*, just mentioned before, by Lord *Coke* under the same Title; and I think there cannot be a greater, at least a plainer Authority for us, than the Judgment in the Case of *John de Northampton*, which my Lord hath set down at large. *Et quia prædictus Johannes cognovit dictam Litteram per se scriptam Roberto de Ferrers, qui est de Concilio Regis, quæ littera continet in se nullam veritatem*, &c. Now Sir, by this Judgment it appears the libellous Words were utterly false, and there the Falshood was the Crime, and is the Ground of that Judgment: And is not that what we contend for? Do not we insist that the Falshood makes the Scandal, and both make the

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6 Geo. II.

Libel? And how shall it be known whether the Words are libellous, *that is, true or false*, but by admitting us to prove them *true*, since Mr Attorney will not undertake to prove them *false*? Besides, is it not against Common Sense, that a Man should be punished in the same Degree for a *true Libel* (if any such Thing could be) as for a *false one*? I know it is said, *That Truth makes a Libel the more provoking, and therefore the Offence is the greater, and consequently the Judgment should be the heavier*. Well, suppose it were so, and let us agree for once, *That Truth is a greater Sin than Falshood*: Yet as the Offences are not equal, and as the Punishment is arbitrary, *that is*, according as the Judges in their Discretion shall direct to be inflicted, is it not absolutely necessary that they should know whether the Libel is *true or false*, that they may by that Means be able to proportion the Punishment? For would it not be a sad Case, if the Judges, for want of a due Information should chance to give as severe a Judgment against a Man for writing or publishing a Lie, as for writing or publishing a Truth? And yet this (with Submission) as monstrous and ridiculous as it may seem to be, is the natural Consequence of Mr Attorney's Doctrine, *That Truth makes a worse Libel than Falshood*, and must follow from his not proving our Papers to be *false*, or not suffering us to prove them to be *true*. But this is only reasoning upon the Case, and I will now proceed to shew, what in my Opinion will be sufficient to induce the Court to allow us to prove the Truth of the Words, which in the Information are called libellous. And first I think there cannot be a greater Authority for us, than the Judgment I just now mentioned in the Case of *John de Northampton*, and that was in early Times, and before the Star-Chamber came to its Fulness of Power and Wickedness. In that Judgment, as I observed, the *Falshood* of the Letter which was wrote, is assigned as the very Ground of the Sentence. And agreeable to this it was urged by Sir *Robert Sawyer*, * in the Tryal of the seven Bishops, *That the Falsity, the Malice, and Sedition of the Writing, were all Facts to be proved*. But here it may be said, Sir *Robert* was one of the Bishop's Council, and his Argument is not to be allowed for Law: But I offer it only to shew that we are not the first who have insisted, that to make a Writing a Libel, it must be *false*.

* State Tryals,
Vol. 4.

*Coke 3 Inst.
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6 Geo. II.

And if the Argument of a Council must have no Weight, I hope there will be more Regard shewn to the Opinion of a Judge, and therefore I mention the Words of Justice *Powel* in the same Tryal, where he says (of the Petition of the Bishops, which was called a Libel, and upon which they were prosecuted by Information) *That to make it a Libel, it must be false and malicious, and tend to Sedition; and declared, as he saw no Falshood or Malice in it, he was of Opinion, that it was no Libel.* Now I should think this Opinion alone, in the Case of the King, and in a Case which that King had so much at Heart, and which to this Day has never been contradicted, might be a sufficient Authority to entitle us to the Liberty of proving the Truth of the Papers, which in the Information are called *false, malicious, seditious, and scandalous.* If it be objected, *that the Opinions of the other three Judges were against him,* I answer, That the Censures the Judgments of these Men have undergone, and the Approbation Justice *Powel's* Opinion, his Judgment and Conduct upon that Tryal, has met with, and the Honour he gained to himself for daring to speak Truth at such a Time, upon such an Occasion, and in the Reign of such a King, is more than sufficient, in my humble Opinion, to warrant our insisting on his Judgment, as a full Authority to our Purpose, and it will lye upon Mr Attorney to shew, that this Opinion has since that Time been denied to be Law, or that Justice *Powel*, who delivered it, has ever been condemned or blamed for it, in any Law-Book extant to this Day; and this I will venture to say Mr Attorney cannot do. But to make this Point yet more clear, if any Thing can be clearer, I will on our Part proceed and shew, that in the Case of Sir *Samuel Barnardiston*, his Council, notwithstanding he stood before one of the greatest Monsters that ever presided in an English Court (Judge *Jefferies*) insisted on the Want of Proof to the *Malice* and *seditious Intent* of the Author, of what was called a *Libel.* And in the Case of *Tutchin*, which seems to be Mr Attorney's chief Authority, that Case is against him; for he was upon his Tryal put upon shewing the Truth of his Papers, but did not, at least the Prisoner was asked by the King's Council, whether he would say they were true? And as he never pretended, that they were true, the Chief Justice was not to say so. But the Point

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will still be clearer on our Side from *Fuller's* Case, *For falsely and wickedly causing to be printed a false and scandalous Libel, in which (amongst other Things) were contained these Words.* "Mr *Jones* has also made Oath, That he paid 5000 l. more by the late King's Order, to several Persons in Places of Trust, that they might compleat my Ruin, and invalidate me for ever. Nor is this all; for the same Mr *Jones* will prove by undeniable Witness and Demonstration, that he has distributed more than 180,000 l. in eight Years last past, by the French King's Order, to Persons in publick Trust in this Kingdom." Here you see is a scandalous and infamous Charge against the late King; here is a Charge, no less than High Treason, against the Men in publick Trust, for receiving Money of the French King, then in actual War with the Crown of Great Britain; and yet the Court were far from bearing him down with that Star-Chamber Doctrine, to wit, *That it was no matter, whether what he said was true or false; No, on the contrary, Lord Chief Justice Holt asks Fuller, Can you make it appear, they are true? Have you any Witnesses? You might have had Subpoena's for your Witnesses against this Day. If you take upon you to write such Things as you are charged with, it lies upon you to prove them true, at your Peril. If you have any Witnesses, I will hear them. How came you to write those Books which are not true? If you have any Witnesses, produce them. If you can offer any Matter to prove what you have wrote, let us hear it.* Thus said, and thus did, that great Man Lord Chief Justice *Holt*, upon a Tryal of the like Kind with ours, and the Rule laid down by him in this Case is, *That he who will take upon him to write Things, it lies upon him to prove them at his Peril.* Now, Sir, we have acknowledged the Printing and Publishing of those Papers, set forth in the Information, and (with the Leave of the Court) agreeable to the Rule laid down by Chief Justice *Holt*, we are ready to prove them to be true, at our Peril.

Mr Ch. Justice. Let me see the Book.

Here the Court had the Case under Consideration a considerable Time, and every one was silent.

Mr Ch. Just. Mr Attorney, you have heard what Mr *Hamilton* has said, and the cases he has cited, for having his Witnesses examined, to prove the Truth of

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6 Geo. II.State Tryals,
Vol. V. 549.

of the several Facts contained in the Papers set forth in the Information. What do you say to it?

Mr Attorney. The Law in my Opinion is very clear; they cannot be admitted to justify a Libel; for, by the Authorities I have already read to the Court, it is not the less a Libel because it is true. I think I need not trouble the Court with reading the cases over again; the Thing seems to be very plain, and I submit it to the Court.

Mr Ch. Just. Mr Hamilton, the Court is of Opinion, you ought not to be permitted to prove the Facts in the Papers: These are the Words of the Book, 'It is far from being a Justification of a Libel, that the Contents therefore are true, or that the Person upon whom it is made, had a bad Reputation, since the greater Appearance there is of Truth in any malicious Invektive, so much the more provoking it is.'

Mr Hamilton. These are Star-Chamber Cases, and I was in hopes, that Practice had been dead with the Court.

Mr Ch. Just. Mr Hamilton, the Court have delivered their Opinion, and we expect you will use us with good Manners; you are not to be permitted to argue against the Opinion of the Court.

Mr Hamilton. With Submission, I have seen the Practice in very great Courts, and never heard it deemed unmannerly to

Mr Ch. Just. After the Court have declared their Opinion, it is not good Manners to insist upon a Point, in which you are over-ruled.

Mr Hamilton. I will say no more at this Time; the Court I see is against us in this Point; and that I hope I may be allowed to say.

Mr Chief Just. Use the Court with good Manners, and you shall be allowed all the Liberty you can reasonably desire.

Mr Hamilton. I thank Your Honour. Then Gentlemen of the Jury, it is to you we must now appeal for Witnesses, to the Truth of the Facts we have offered, and are denied the Liberty to prove; and let it not seem strange, that I apply myself to you in this Manner, I am warranted so to do both by Law and Reason. The Law supposes you to be summoned out of the Neighbourhood where the Fact is alleged to be committed; and the Reason of your being taken out of the Neighbourhood is, because you are supposed to have

the best Knowledge of the Fact that is to be tried. And were you to find a Verdict against my Client, you must take upon you to say, the Papers referred to in the Information, and which we acknowledge we printed and published, are false, scandalous and seditious; but of this I can have no Apprehension. You are Citizens of New-York; you are really, what the Law supposes you to be, honest and lawful Men; and, according to my Brief, the Facts which we offer to prove were not committed in a Corner; they are notoriously known to be true; and therefore in your Justice lies our Safety. And as we are denied the Liberty of giving Evidence, to prove the Truth of what we have published, I will beg Leave to lay it down as a standing Rule in such Cases, That the suppressing of Evidence ought always to be taken for the strongest Evidence; and I hope it will have that Weight with you. But since we are not admitted to examine our Witnesses, I will endeavour to shorten the Dispute with Mr Attorney, and to that End, I desire he would favour us with some Standard Definition of a Libel, by which it may be certainly known, whether a Writing be a Libel, yea or not.

Mr Attorney. The Books, I think, have given a very full Definition of a Libel; they say it is 'in a strict Sense taken for a malicious Refamation, expressed either in Printing or Writing, and tending either to blacken the Memory of one who is dead, or the Reputation of one who is alive, and to expose him to publick Hatred, Contempt or Ridicule. §. 2. But it is said, That in a larger Sense the Notion of a Libel may be applied to any Defamation whatsoever, expressed either by Signs or Pictures, as by fixing up a Gallows against a Man's Door, or by painting him in a shameful and ignominious Manner. §. 3. And since the chief Cause for which the Law so severely punishes all Offences of this Nature, is the direct Tendency of them to a Breach of publick Peace, by provoking the Parties injured, their Friends and Families to Acts of Revenge, which it would be impossible to restrain by the severest Laws, were there no Redress from publick Justice for Injuries of this kind, which of all others are most sensibly felt; and since the plain Meaning of such Scandal, as is expressed by Signs or Pictures, is as obvious to common Sense, and as easily understood by every common Capacity, and alto-

Hawk.
Chap. lxxiii.
§ 1. & Seq.]

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6 Geo. II.

gether as provoking as that which is expressed by Writing or Printing, why should it not be equally criminal? §. 4. And from the same Ground it seemeth also clearly to follow, That such Scandal, as is expressed in a scoffing and ironical Manner, makes a Writing as properly a Libel, as that which is expressed in direct Terms; As where a Writing, in a taunting Manner reckoning up several Acts of publick Charity done by one, says, *You will not play the Jew nor the Hypocrite*; And so goes on in a Strain of Ridicule to insinuate, that what he did was owing to his Vain-Glory; Or where a Writing, pretending to recommend to one the Characters of several great Men for his Imitation, instead of taking Notice of what they are generally esteemed famous for, pitched on such Qualities only which their Enemies charge them with the Want of, as by proposing such a one to be imitated for his Courage, who is known to be a great Statesman, but no Soldier, and another to be imitated for his Learning, who is known to be a great General, but no Scholar, &c. Which Kind of Writing is as well understood to mean only to upbraid the Parties with the Want of these Qualities, as if it had directly and expressly done so.

Mr Hamilton. Ay, Mr Attorney; but what certain Standar Rule have the Books laid down, by which we can certainly know, whether the Words or the Signs are malicious? Whether they are defamatory? Whether they tend to the Breach of the Peace, and are a sufficient Ground to provoke a Man, his Family, or Friends, to Acts of Revenge, especially those of the Ironical Sort of Words? And what Rule have you to know when I write Ironically? I think it would be hard, when I say, *Such a Man is a very honest Gentleman, and of fine Understanding*, that therefore I meant *he was a Knave or a Fool*.

Mr Attorney. I think the Books are very full; it is said in 1 Hawk. p. 193. just now read, 'That such Scandal as is expressed in a scoffing and Ironical Manner, makes a Writing as properly a Libel, as that which is expressed in direct Terms; As where a Writing in a taunting Manner says, reckoning up several Acts of Charity done by one, says, *You will not play the Jew or the Hypocrite*, and so goes on to insinuate, that what he did was owing to his Vain Glory,

&c. Which Kind of Writing is as well understood to mean only to upbraid the Parties with the Want of these Qualities, as if it had directly and expressly done so.' I think nothing can be plainer or more full than these Words.

Mr Hamilton. I agree the Words are very plain, and I shall not scruple to allow (when we are agreed that the Words are false and scandalous, and were spoken in an Ironical and Scoffing Manner, &c.) that they are really libellous; but here still occurs the Uncertainty, which makes the Difficulty to know, what Words are scandalous and what not; for you say, they may be scandalous, true or false; besides, how shall we know whether the Words were spoke in a Scoffing and Ironical Manner, or seriously? Or how can you know, whether the Man did not think as he wrote? For by your Rule, if he did; it is no Irony, and consequently no Libel. But under Favour, Mr Attorney, I think the same Book, and the same Section, will shew us the only Rule by which all these Things are to be known. The Words are these; *Which Kind of Writing is as well UNDERSTOOD to mean only to upbraid the Parties with the Want of these Qualities, as if they had directly and expressly done so*. Here it is plain, the Words are scandalous, scoffing, and Ironical, only as they are UNDERSTOOD, I know no Rule laid down in the Books but this, I mean, as the Words are understood.

Mr Ch. Just. Mr Hamilton, Do you think it so hard to know, when Words are Ironical, or spoke in a scoffing Manner?

Mr Hamilton, I own it may be known; but I insist, the only Rule to know is, as I do or can understand them; I have no other Rule to go by, but as I understand them.

Mr Ch. Just. That is certain. All Words are libellous or not, as they are understood. Those who are to judge of the Words, must judge whether they are scandalous or Ironical, tend to the Breach of the Peace, or are seditious: There can be no Doubt of it.

Mr Hamilton. I thank your Honour; I am glad to find the Court of this Opinion. Then it follows that those twelve Men must understand the Words in the Information to be scandalous, that is to say, false; for I think it is not pretended they are of the Ironical Sort; and when they understand the Words to be so, they will

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6 Geo. II.

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will say we are guilty of Publishing a *false Libel*, and not otherwise.

Mr Ch. Just. No, Mr Hamilton; the Jury may find that Zenger printed and published those Papers, and leave it to the Court to judge whether they are libellous; you know this is very common; it is in the Nature of a special Verdict, where the Jury leave the Matter of Law to the Court.

Mr Hamilton. I know, may it please Your Honour, the Jury may do so; but I do likewise know they may do otherwise. I know they have the Right beyond all Dispute, to determine both the Law and the Fact, and where they do not doubt of the Law, they ought to do so. This of leaving it to the Judgment of the Court, *Whether the Words are libellous or not*, in Effect renders Juries useless (to say no worse) in many Cases; but this I shall have Occasion to speak to by and by; and I will with the Court's Leave proceed to examine the Inconveniences that must inevitably arise from the Doctrines Mr Attorney has laid down; and I observe in Support of this Prosecution, he has frequently repeated the Words taken from the Case of *Libel famosus*, in 5 Co. This is indeed the leading Case, and to which almost all the other Cases upon the Subject of Libels do refer; and I must insist upon saying, That according as this Case seems to be understood by the Court and Mr Attorney, it is not Law at this Day: For tho' I own it to be *base and unworthy* to scandalize any Man, yet I think it is even villainous to scandalize a Person of publick Character, and I will go so far into Mr Attorney's Doctrine as to agree, that if the Faults, Mistakes, nay even the Vices, of such a Person be private and personal, and don't affect the Peace of the Publick, or the Liberty or Property of our Neighbour, it is *unmanly and unmannerly* to expose them either by Word or Writing. But when a Ruler of the People brings his personal Failings, but much more his Vices, into his Administration, and the People find themselves affected by them, either in their Liberties or Properties, that will alter the Case mightily, and all the high Things that are said in Favour of Rulers, and of Dignities, and upon the Side of Power, will not be able to stop People's Mouths when they feel themselves oppressed, I mean in a free Government. It is true in Times past it was a Crime to speak Truth, and in that terrible Court of Star Chamber, many worthy and brave

Men suffered for so doing; and yet even in that Court, and in those bad Times, a great and good Man durst say, what I hope will not be taken amiss of me to say in this Place, to wit, *the Practice of Information for Libels is a Sword in the Hands of a wicked King, and an arrand Coward to cut down and destroy the Innocent; the one cannot, because of his high Station, and the other dares not, because of his Want of Courage, revenge himself in another Manner.*

Mr Attorney. Pray Mr Hamilton, have a Care of what you say, don't go too far neither, I don't like those Liberties.

Mr Hamilton. Sure, Mr Attorney, you won't make any Applications; all Men agree that we are governed by the best of Kings, and I cannot see the Meaning of Mr Attorney's Caution; my well known Principles, and the Sense I have of the Blessings we enjoy under his present Majesty, makes it impossible for me to err, and I hope, even to be suspected, in that Point of Duty to my King. May it please Your Honour, I was saying, That notwithstanding all the Duty and Reverence claimed by Mr Attorney to Men in Authority, they are not exempt from observing the Rules of common Justice, either in their private or publick Capacities; the Laws of our Mother-Country know no Exception. It is true, Men in Power are harder to be come at for Wrongs they do, either to a private Person, or to the Publick; especially a Governor in the Plantations, where they insist upon an Exemption from answering Complaints of any Kind in their own Government. We are indeed told, and it is true, they are obliged to answer a Suit in the King's Court at *Westminster*, for a Wrong done to any Person here: But do we not know how impracticable this is to most Men among us, to leave their Families (who depend upon their Labour and Care for their Livelihood) and carry Evidences to *Britain*, and at a great, nay, a far greater Expence than almost any of us are able to bear, only to prosecute a Governor for an Injury done here. But when the Oppression is general, there is no Remedy even that Way: No, our Constitution has (blessed be God) given us an Opportunity, if not to have such Wrongs redressed, yet by our Prudence and Resolution we may in a great Measure prevent the Committing of such Wrongs, by making a Governor sensible that it is his Interest to be just to those under his

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6 Geo. II.

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Care, for such is the Sense that Men in General (I mean Freemen) have of common Justice, that when they come to know, that a Chief Magistrate abuses the Power with which he is intrusted, for the Good of the People, and is attempting to turn that very Power against the Innocent, whether of high or low Degree, I say, Mankind in general seldom fail to interpose, and as far as they can, prevent the Destruction of their Fellow Subjects. And has it not often been seen (and I hope it will always be seen) that when the Representatives of a free People are by just Representations or Remonstrances made sensible of the Sufferings of their Fellow Subjects, by the Abuse of Power in the Hands of a Governor, they have declared (and loudly too) that they were not obliged by any Law to support a Governor who goes about to destroy a Province or Colony, or their Privileges, which by his Majesty he was appointed, and by the Law he is bound, to protect and encourage. But I pray it may be considered of what Use is this mighty Privilege, if every Man that suffers must be silent? And if a Man must be taken up as a Libeller, for telling his Sufferings to his Neighbour? I know it may be answer'd, *Have you not a Legislature? Have you not a House of Representatives, to whom you may complain?* And to this I answer, We have. But what then? Is an Assembly to be troubled with every Injury done by a Governor? Or are they to hear of nothing but what those in the Administration will please to tell them? Or what Sort of a Tryal must a Man have? And how is he to be remedied, especially if the Case were, as I have known it to happen in *America* in my Time, That a Governor who has Places (I will not say Pensions, for I believe they seldom give that to another which they can take to themselves) to bestow, and can or will keep the same Assembly (after he has model'd them so as to get a Majority of the House in his Interest) for near *twice seven Years* together? I pray, what Redress is to be expected for an honest Man, who makes his Complaint against a Governor to an Assembly, who may properly enough be said, to be made by the same Governor against whom the Complaint is made? The Thing answers itself. No, it is natural, it is a Privilege, I will go farther, it is a Right which all Freemen claim, and are entitl'd to complain when they are hurt; they have a

Right publickly to remonstrate the Abuses of Power in the strongest Terms, to put their Neighbours upon their Guard, against the Craft or open Violence of Men in Authority, and to assert with Courage the Sense they have of the Blessings of Liberty, the Value they put upon it, and their Resolution at all Hazards to preserve it, as one of the greatest Blessings Heaven can bestow. And when a House of Assembly, composed of honest Freemen, sees the general Bent of the Peoples Inclinations, That is it which must and will (I'm sure it ought to) weigh with a Legislature, in Spite of all the Craft, Carreling, and Cajoling, made use of by a Governor, to divert them from hearkening to the Voice of their Country. As we all very well understand the true Reason, why Gentlemen take so much Pains and make such great Interest to be appointed Governors, so is the Design of their Appointment not less manifest. We know his Majesty's gracious Intentions to his Subjects; he desires no more than that his People in the Plantations should be kept up to their Duty and Allegiance to the Crown of *Great Britain*; that Peace may be preserved amongst them, and Justice impartially administred, that we may be governed so as to render us useful to our Mother-Country, by encouraging us to make and raise such Commodities as may be useful to *Great Britain*. But will any one say, that all or any of these good Ends are to be effected by a Governor's setting his People together by the Ears, and by the Assistance of one Part of the People to plague and plunder the other? The Commission which Governors bear, while they execute the Powers given them, according to the Intent of the Royal Grantor, expressed in their Commissions, requires and deserves very great Reverence and Submission; but when a Governor departs from the Duty enjoyned him by his Sovereign, and acts as if he was less accountable than the Royal Hand that gave him all that Power and Honour which he is possessed of; this sets People upon examining and enquiring into the Power, Authority, and Duty of such a Magistrate, and to compare those with his Conduct; and just as far as they find he exceeds the Bounds of his Authority, or falls short in doing impartial Justice to the People under his Administration, so far they very often, in return, come short in their Duty to such a Governor. For

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Power alone will not make a Man beloved, and I have heard it observed, That the Man who was neither good nor wise before his being made a Governor, never mended upon his Preferment, but has been generally observed to be worse: For Men who are not endued with Wisdom and Vertue, can only be kept in Bounds by the Law; and by how much the farther they think themselves out of the Reach of the Law, by so much the more wicked and cruel Men are. I wish there were no Instances of the Kind at this Day. And whenever this happens to be the Case of a Governor, unhappy are the People under his Administration, and in the End he will find himself so too; for the People will neither love him nor support him. I make no Doubt but there are those here, who are zealously concerned for the Success of this Prosecution, and yet I hope they are not many, and even some of those, I am persuaded (when they consider what Lengths such Prosecutions may be carried, and how deeply the Liberties of the People may be affected by such Means) will not all abide by their present Sentiments; I say, *Not All*: For the Man who from an Intimacy and Acquaintance with a Governor has conceived a personal Regard for him, the Man who has felt none of the strokes of his Power, the Man who believes that a Governor has a Regard for him and confides in him, it is natural for such Men to wish well to the Affairs of such a Governor; and as they may be Men of Honour and Generosity, may, and no Doubt will, with him Success, so far as the Right and Privileges of their Fellow Citizens are not affected. But as Men of Honour, I can apprehend nothing from them; they will never exceed that Point. There are others that are under stronger Obligations, and those are such, as are in some Sort engaged in Support of a Governor's Cause, by their own or their Relations Dependence on his Favour, for some Post or Preferment: such Men have what is commonly called Duty and Gratitude to influence their Inclinations, and oblige them to go his Lengths. I know Men's Interests are very near to them, and they will do much, rather than forgoe the Favour of a Governor, and a Livelihood at the same Time; but I can with very just Grounds hope, even from those Men, whom I will suppose to be Men of Honour and Conscience too, that when they see

the Liberty of their Country is in Danger, either by their Concurrence, or even by their Silence, they will, like *Englishmen*, and like themselves, freely make a Sacrifice of any Preferment or Favour rather than be accessory to destroying the Liberties of their Country, and entailing Slavery upon their Posterity. There are indeed another set of Men, of whom I have no Hopes, I mean such who lay aside all other Considerations, and are ready to join with Power in any Shapes, and with any Man or Sort of Men, by whose Means or Interest they may be assisted to gratify their Malice and Envy, against those whom they have been pleased to hate; and that for no other Reason, but because they are Men of Abilities and Integrity, or at least are possessed of some valuable Qualities far superiour to their own. But as Envy is the Sin of the Devil, and therefore very hard, if at all, to be repented of, I will believe there are but few of this detestable and worthless Sort of Men, nor will their Opinions or Inclinations have any Influence upon this Tryal. But to proceed: I beg Leave to insist, That the Right of complaining or remonstrating is natural; and the Restraint upon this natural Right is the Law only, and that those Restraints can only extend to what is *false*: For as it is Truth alone which can excuse or justify any Man for complaining of a bad Administration, I as frankly agree, that nothing ought to excuse a Man who raises a false Charge or Accusation, even against a private Person, and that no manner of Allowance ought to be made to him, who does so against a publick Magistrate. *Truth* ought to govern the whole Affair of Libels, and yet the Party accused runs Risque enough even then; for if he fails of proving every Tittle of what he has wrote, and to the Satisfaction of the Court and Jury too, he may find to his Cost, that when the Prosecution is set on Foot by Men in Power, it seldom wants Friends to favour it. And from thence (it is said) has arisen the great Diversity of Opinions among Judges about what Words were or were not scandalous or libellous. I believe it will be granted, that there is no greater Uncertainty in any Part of the Law, than about Words of Scandal; it would be mispending of the Court's Time to mention the Cases; they may be said to be numberless; and therefore the utmost Care ought to be taken in following Precedents; and the Times when

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the Judgments were given, which are quoted for Authority in the Case of Libels, are much to be regarded. I think it will be agreed, That ever since the Time of the Star-Chamber, where the most arbitrary and destructive Judgments and Opinions were given, that ever an *Englishman* heard of, at least in his own Country: I say, Prosecutions for Libels since the Time of that arbitrary Court, and until the glorious Revolution, have generally been set on Foot at the Instance of the Crown or its Ministers; and it is no small Reproach to the Law, that these Prosecutions were too often and too much countenanced by the Judges, who held their Places at Pleasure, (a disagreeable Tenure to any Officer, but a dangerous one in the Case of a Judge.) To say more to this Point may not be proper. And yet I cannot think it unwarrantable, to shew the unhappy Influence that a Sovereign has sometimes had, not only upon Judges, but even upon Parliaments themselves.

It has already been shewn, how the Judges differed in their Opinion about the Nature of a Libel, in the Case of the seven Bishops. There you see three Judges of one Opinion, that is, of a wrong Opinion, in the Judgment of the best Men in *England*, and one Judge of a right Opinion. How unhappy might it have been for all of us at this Day, if that Jury had understood the Words in that Information as the Court did? Or if they had left it to the Court, to judge whether the Petition of the Bishops was or was not a Libel? No! they took upon them, to their immortal Honour, to determine both *Law* and *Fact*; and to *understand* the Petition of the Bishops to be no Libel, that is, to contain no *Falshood* nor *Sedition*, and therefore found them *Not Guilty*. And remarkable is the Case of Sir *Samuel Barnardiston*, who was fined 10,000 *l.* for Writing a Letter, in which, it may be said, none saw any Scandal or Falshood but the Court and Jury; for that Judgment was afterwards looked upon as a cruel and detestable Judgment, and therefore was reversed by Parliament. Many more Instances might be given of the Complaisance of Court-Judges, about those Times and before; but I will mention only one Case more, and that is the Case of Sir *Edward Hales*, who, tho' a *Roman Catholick*, was by King *James the II.* preferred to be a Colonel of his Army; notwithstanding the Statute of 25 *Cha.* II.

Chap. 21. by which it is provided, 'That every one that accepts of an Office, Civil or Military, &c. shall take the Oath, subscribe the Declaration, and take the Sacrament, within three Months, &c. otherwise he is disabled to hold such Office, and the Grant for the same to be null and void, and the Party to forfeit 500 *l.*' Sir *Edward Hales* did not take the Oaths or Sacrament, and was prosecuted for the 500 *l.* for exercising the Office of a Colonel by the Space of three Months, without conforming as in the Act is directed. Sir *Edward* pleads, 'That the King by His Letters Patents did dispense with his taking his Oaths and Sacraments, and subscribing the Declaration, and had pardoned the Forfeiture of 500 *l.* And whether the King's Dispensation was good, against the said Act of Parliament?' was the Question. I shall mention no more of this Case, than to shew how in the Reign of an arbitrary Prince, where Judges hold their Seats at Pleasure, their Determination have not always been such as to make Precedents of, but the contrary; and so it happened in this Case where it was solemnly judged, 'That, notwithstanding this Act of Parliament, made in the strongest Terms, for Preservation of the Protestant Religion, That yet the King had, by his Royal Prerogative, a Power to dispense with that Law;' and Sir *Edward Hales* was acquitted by the Judges accordingly. So the King's Dispensing Power, being by the Judges set up above the Act of Parliament, this Law, which the People looked upon as their chief Security against Popery and Arbitrary Power, was by this Judgment rendered altogether ineffectual. But this Judgment is sufficiently exposed by Sir *Edward Atkins*, late one of the Judges of the Court of Common Pleas, in his *Enquiry into the King's Power of dispensing with penal Statutes*; where it is shewn, *Who it was that first invented Dispensations; how they came into England; what ill Use has been made of them there; and all this principally owing to the Countenance given them by the Judges.* He says of the Dispensing Power, **The Pope was the Inventor of it; our Kings have borrowed it from them; and the Judges have from Time to Time nursed and dressed it up, and given it Countenance; and it is still upon the Growth, and encroaching, till it has almost subverted all Law, and made the Regal Power absolute if not dissolute.* This seems not only to shew how far Judges have

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Sir *Edward Atkins's Enquiry into the Power of Dispensing with penal Statutes.*

* Postscript to the Enquiry, p. 51.

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have been influenced by Power, and how little Cases of this Sort, where the Prerogative has been in Question in former Reigns, are to be relied upon for Law: But I think it plainly shews too, that a Man may use a greater Freedom with the Power of his Sovereign and the Judges in *Great Britain*, than it seems he may with the Power of a Governor in the Plantations, who is but a Fellow-Subject. Are these Words with which we are charged, like these? Do Mr Zenger's Papers contain any such Freedoms with his Governor or his Council, as Sir Edward Atkins has taken with the Regal Power and the Judges in *England*? And yet I never heard of any Information brought against him for these Freedoms.

If then upon the whole there is so great an Uncertainty among Judges (learned and great Men) in Matters of this Kind; If Power has had so great an Influence on Judges, how cautious ought we to be in determining by their Judgments, especially in the Plantations, and in the Case of Libels? There is Heresy in Law, as well as in Religion, and both have changed very much; and we well know that it is not two Centuries ago that a Man would have been burnt as an Heretick, for owning such Opinions in Matters of Religion as are publicly wrote and printed at this Day. They were fallible Men, it seems, and we take the Liberty not only to differ from them in religious Opinions, but to condemn them and their Opinions too; and I must presume, that in taking these Freedoms in thinking and speaking about Matters of Faith or Religion, we are in the right: For, though it is said there are very great Liberties of this Kind taken in *New-York*, yet I have heard of no Information preferred by Mr Attorney for any Offences of this Sort. From which I think it is pretty clear, That in *New-York* a Man may make very free with his God, but he must take special Care what he says of his Governor. It is agreed upon by all Men, that this is a Reign of Liberty, and while Men keep within the Bounds of Truth, I hope they may with Safety both speak and write their Sentiments of the Conduct of Men in Power, I mean of that Part of their Conduct only, which affects the Liberty or Property of the People under their Administration; were this to be denied, then the next Step may make them Slaves. For what Notions can be entertained of Slavery, beyond that of suffering the greatest Injuries and Oppressions, without the Liberty of complaining; or

if they do, to be destroyed, Body and Estate, for so doing.

It is said, and insisted on by Mr Attorney, 'That Government is a sacred Thing; That it is to be supported and revered; It is Government that protects our Persons and Estates; That prevents Treason, Murders, Robberies, Riots, and all the Train of Evils that overturns Kingdoms and States, and ruins particular Persons; and if those in the Administration, especially the Supreme Magistrate, must have all their Conduct censured by private Men, Government cannot subsist. This is called a Licentiousness not to be tolerated. It is said, That it brings the Rulers of the People into Contempt, and their Authority not to be regarded, and so in the End the Laws cannot be put in Execution.' These, I say, and such as these, are the general Topicks insisted upon by Men in Power, and their Advocates. But I wish it might be considered at the same Time, how often it has happened, that the Abuse of Power has been the primary Cause of these Evils, and that it was the Injustice and Oppression of these great Men, which has commonly brought them into Contempt with the People. The Craft and Art of such Men is great, and who that is the least acquainted with History or Law can be ignorant of the specious Pretences, which have often been made use of by Men in Power to introduce arbitrary Rule, and destroy the Liberties of a free People. I will give two Instances; and as they are Authorities not to be denied, nor can be misunderstood, I presume they will be sufficient.

The first is the Statute of 3d. of Hen. VII. Cap. 1. The Preamble of the Statute will prove all, and more than I have alleged. It begins, 'The King Our Sovereign Lord remembereth how by unlawful Maintinances, giving of Liveries, Signs and Tokens, &c. untrue Demeaning of Sheriffs in making of Pannels, and other untrue Returns, by taking of Money, by Injuries, by great Riots and unlawful Assemblies, the Policy and good Rule of this Realm is almost subdued; and for the not punishing these Inconveniences, and by Occasion of the Premises, little or nothing may be found by Inquiry, &c. to the Increase of Murders, &c. and Unsureties of all Men living, and Losses of their Lands and Goods.' Here is a fine and specious Pretence for introducing the Remedy, as it is called, which is provided

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ed by this Act; *that is*, instead of being lawfully accused by 24 good and lawful Men of the Neighbourhood, and afterwards tried by 12 like lawful Men, here is a Power given to the Lord Chancellor, Lord Treasurer, the Keeper of the King's privy Seal, or two of them, calling to them a Bishop, a temporal Lord, and other great Men mentioned in the Act, (who, it is to be observed, were all to be Dependants on the Court) to receive Information against any Person for any of the Misbehaviours recited in that Act, and by their Discretion to examine, and to punish them according to their Demerit.

The second Statute I proposed to mention, is the 11th of the same King, Chap. 3d, the Preamble of which Act has the like fair Pretences as the former; *for the King calling to his Remembrance the good Laws made against the receiving of Liveries, &c. unlawful Extortions, Maintenances, Embracery, &c. unlawful Games, &c. and many other great Enormities, and Offences committed against many good Statutes, to the Displeasure of Almighty God, which, the Act says, could not, nor yet can, be conveniently punished by the due Order of the Law, except it was first found by 12 Men, &c. which, for the Causes aforesaid, will not find nor yet present the Truth.* And therefore the same Statute directs, *That the Justices of Assize, and Justices of the Peace, shall upon Information for the King before them made, have full Power, by their Discretion, to hear and determine all such Offences.* Here are two Statutes that are allowed to have given the deepest Wound to the Liberties of the People of England of any that I remember to have been made, unless it may be said, that the Statute made in the Time of Henry VIII, by which his Proclamations were to have the Effect of Laws, might in its Consequence be worse. And yet we see the plausible Pretences found out by the great Men to procure these Acts. And it may justly be said, that by those Pretences the People of England were cheated or aw'd into the Delivering up their antient and sacred Right of Tryals by Grand and Petit Juries. I hope to be excused for this Expression, seeing my Lord Coke calls it *an unjust and strange Act, that tended in its Execution to the great Displeasure of Almighty God, and the utter Subversion of the common Law.*

These, I think, make out what I alleged, and are flagrant Instances of the Influence of Men of Power, even upon

the Representatives of a whole Kingdom. From all which I hope it will be agreed, that it is a Duty which all good Men owe to their Country, to guard against the unhappy Influence of ill Men when intrusted with Power, and especially against their Creatures and Dependents, who, as they are generally more necessitous, are surely more covetous and cruel. But it is worthy of Observation, that though the Spirit of Liberty was born down and oppressed in England at that time, yet it was not lost; for the Parliament laid hold of the first Opportunity to free the Subject from the many insufferable Oppressions and Outrages committed upon their Persons and Estates by Colour of these Acts, the last of which being deemed the most grievous, was repealed in the first Year of Henry VIII. Though it is to be observed, that Henry VII, and his Creatures, reaped such great Advantages by the grievous Oppressions and Exactions, *grinding the Faces of the poor Subjects*, as my Lord Coke says, by Colour of this Statute by Information only, that a Repeal of this Act could never be obtained during the Life of that Prince. The other Statute being the favourite Law for supporting arbitrary Power, was continued much longer. The Execution of it was by the great Men of the Realm; and how they executed it, the Sense of the Kingdom expressed in the 17th of Charles I, (by which the Court of Star-Chamber, the Soil where Informations grew rankest) will best declare. In that Statute *Magna Charta*, and the other Statutes made in the Time of Edward III, which, I think, are no less than five, are particularly enumerated as Acts, by which the Liberties and Privileges of the People of England were secured to them, against such oppressive Courts as the Star-Chamber, and others of the like Jurisdiction. And the Reason assigned for their pulling down the Star-Chamber, is, 'That the Proceedings, Censures and Decrees of the Court of Star-Chamber, even though the great Men of the Realm, nay, and a Bishop too (*holy Man*) were Judges, had by Experience been found to be an intolerable Burthen to the Subject, and the Means to introduce an arbitrary Power and Government.' And therefore that Court was taken away, with all the other Courts in that Statute mentioned, having like Jurisdiction.

I don't mention this Statute, as if by the taking away the Court of Star-Chamber, the Remedy for many of the Abuses

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or Offences censured there, was likewise taken away; no, I only intend by it to shew, that the People of England saw clearly the Danger of trusting their Liberties and Properties to be tried, even by the greatest Men in the Kingdom, without the Judgment of a Jury of their Equals. They had felt the terrible Effects of leaving it to the Judgment of these great Men to say what was *scandalous and seditious, false or ironical*. And if the Parliament of England thought this Power of judging was too great to be trusted with Men of the first Rank in the Kingdom, without the Aid of a Jury, how sacred soever their Characters might be, and therefore restored to the People their original Right of Tryal by Juries, I hope to be excused for insisting, that by the Judgment of a Parliament, from whence no Appeal lies, the Jury are the proper Judges, of what is *false* at least, if not of what is *scandalous and seditious*. This is an Authority not to be denied, it is as plain as it is great, and to say, that this Act indeed did restore to the People Tryals by Juries, which was not the Practice of the Star-Chamber, but that did not give the Jurors any new Authority, or any Right to try Matter of Law, I say this Objection will not avail; for I must insist, that where Matter of Law is complicated with Matter of Fact, the Jury have a Right to determine both. As for Instance; upon Indictment for Murder, the Jury may, and almost constantly do, take upon them to judge whether the Evidence will amount to Murder or Manslaughter, and find accordingly; and I must say I cannot see, why in our Case the Jury have not at least as good a Right to say, Whether our News Papers are a Libel or no Libel, as another Jury has to say, whether killing of a Man is Murder or Manslaughter. The Right of the Jury, to find such a Verdict as they in their Conscience do think is agreeable to their Evidence, is supported by the Authority of *Busbel's Case*, in *Vaughan's Report*, 135, beyond any doubt. For, in the Argument of that Case, the Chief Justice who delivered the Opinion of the Court, lays it down for Law, *That in all General Issues, as upon Non Cul. in Trespass, Non Tort. Nul Disseizin in Affixe, &c. though it is Matter of Law, whether the Defendant is a Trespasser, a Disseizer, &c. in the particular Cases in Issues, yet the Jury find not (as in a special Verdict) the Fact of*

every Case, leaving the Law to the Court, but find for the Plaintiff or Defendant upon the Issue to be tried wherein they resolve both Law and Fact complicately. It appears by the same Case, that though the discreet and lawful Assistance of the Judge, by Way of Advice, to the Jury, may be useful, yet that Advice or Direction ought always to be upon *Supposition, and not positive, and upon Coersion*. The Reason given in the same Book, is, *Because the Judge (as Judge) cannot know what the Evidence is which the Jury have, that is, he can only know the Evidence given in Court; but the Evidence which the Jury have, may be of their own Knowledge, as they are returned of the Neighbourhood. They may also know from their own Knowledge, that what is sworn in Court is not true; and they may know the Witnesses to be stigmatized, to which the Court may be Strangers.* But what is to my Purpose, is, that suppose that the Court did really know all the Evidence which the Jury know, yet in that Case it is agreed, *That the Judge and Jury may differ in the Result of their Evidence as well as two Judges may, which often happens.* And in page 148. the Judge subjoins the Reason, why it is no Crime for a Jury to differ in Opinion from the Court, where he says, *That a Man cannot see with another's Eye, nor hear by another's Ear; no more can a Man conclude or infer the thing by another's Understanding or Reasoning.* From all which (I insist) it is very plain, *That the Jury are by Law at Liberty (without any affront to the Judgment of the Court) to find both the Law and the Fact, in our Case, as they did in the Case I am speaking to, which I will beg leave just to mention; and it was this.* Mr Penn and Mead being Quakers, and having met in a peaceable Manner, after being shut out of their Meeting-House, preached in *Grace-Church-Street* in *London*, to the People of their own Persuasion, and for this they were indicted; and it was said, *That they with other Persons, to the Number of 300, unlawfully and tumultuously assembled, to the Disturbance of the Peace, &c.* To which they pleaded, *Not Guilty.* And the Petit Jury being sworn to try the Issue between the King and the Prisoners, that is, whether they were Guilty, according to the Form of the Indictment? Here there was no Dispute but they were assembled together, to the Number mentioned in the Indictment; But, *Whether that Meeting together was riotously, tumultuously, and to the Disturbance*

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hance of the Peace? was the Question. And the Court told the Jury it was, and ordered the Jury to find it so; *For* (said the Court) *the Meeting was the Matter of Fact, and that is confessed, and we tell you it is unlawful, for it is against the Statute; and the Meeting being unlawful, it follows of Course that it was tumultuous, and to the Disturbance of the Peace.* But the Jury did not think fit to take the Court's Word for it, for they could neither find *Riot, Tumult*, or any Thing tending to the *Breach of the Peace* committed at that Meeting; and they acquitted Mr. Penn and Mead. In doing of which they took upon them to judge both the *Law* and the *Fact*, at which the Court (being themselves true Courtiers) were so much offended, that they fined the Jury 40 Marks a piece, and committed them till paid. But Mr. Busbel, who valued the Right of a Jurymen and the Liberty of his Country more than his own, refused to pay the Fine, and was resolved (though at a great Expence and Trouble too) to bring, and did bring, his *Habeas Corpus*, to be relieved from his Fine and Imprisonment, and he was released accordingly; and this being the Judgment in his Case, it is established for Law, *That the Judges, how great soever they be, have no Right to fine, imprison, or punish a Jury for not finding a Verdict according to the Direction of the Court.* And this I hope is sufficient to prove, That Jurymen are to see with their own Eyes, to hear with their own Ears, and to make use of their own Consciences and Understandings, in judging of the Lives, Liberties, or Estates of their Fellow Subjects. And so I have done with this Point.

This is the second Information for Libelling of a Governor that I have known in *America*. And the first, though it may look like a Romance, yet as it is true, I will beg leave to mention it. Governor *Nicholson*, who happened to be offended with one of his Clergy, met him one day upon the Road, and as was usual with him (under the Protection of his Commission) used the poor Parson with the worst of Language, threatened to cut off his Ears, slit his Nose, and at last to shoot him through the Head. The Parson being a reverend Man, continued all this time uncovered in the Heat of the Sun, until he found an Opportunity to fly for it; and coming to a Neighbour's House felt himself very ill of a Fever, and immediately writes for a Doctor; and that his Physician might the better judge of his Distemper,

he acquainted him with the Usage he had received; concluding, that the Governor was certainly mad, for that no Man in his Senses would have behaved in that manner. The Doctor unhappily shews the Parson's Letter; the Governor came to hear of it, and so an Information was preferred against the poor Man for saying he believed the Governor was mad; and it was laid in the Information to be *false, scandalous and wicked, and wrote with Intent to move Sedition among the People, and bring His Excellency into Contempt.* But by an Order from the late Queen *Anne*, there was a Stop put to that Prosecution, with sundry others set on Foot by the same Governor, against Gentlemen of the greatest Worth and Honour in that Government.

And may not I be allowed, after all this, to say, That by a little Countenance, almost any Thing which a Man writes, may, with the Help of that useful Term of Art, called an *Innuendo*, be construed to be a Libel, according to Mr Attorney's Definition of, *That whether the Words are spoke of a Person of a publick Character, or of a private Man, whether dead or living, good or bad, true or false, all make a Libel;* for according to Mr Attorney, *after a Man bears a Writing read, or reads and repeats it, or laughs at it, they are all punishable.* It is true, Mr Attorney is so good as to allow, *after the Party knows it to be a Libel*, but he is not so kind as to take the Man's Word for it.

[Here were several Cases put to shew, That though what a Man writes of a Governor was true, proper and necessary, yet according to the foregoing Doctrine it might be construed to be a Libel; But Mr *Hamilton* after the Tryal was over, being informed, That some of the Cases he had put had really happened in this Government, he declared he had never heard of any such; and as he meant no personal Reflections, he was sorry he had mentioned them, and therefore they are omitted here.]

Mr *Hamilton*. If a Libel is understood in the large and unlimited Sense urged by Mr Attorney, there is scarce a Writing I know that may not be called a Libel, or scarce any Person safe from being called to an Account as a Libeller: For *Moses*, meek as he was, libelled *Cain*; and who is it that has not libelled the Devil? For according to Mr Attorney, it is no Justification to say one has a bad Name.

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Name. *Ecchard* has libelled our good King *William*; *Burnet* has libelled among many others King *Charles* and King *James*; and *Ropin* has libelled them all. How must a Man speak or write, or what must he hear, read or sing? Or when must he laugh, so as to be secure from being taken up as a Libeller? I sincerely believe, that were some Persons to go through the Streets of *New-York* now-a-days, and read a Part of the Bible, if it was not known to be such, Mr Attorney, with the Help of his *Innuendos*, would easily turn it into a Libel. As for Instance, *If. ix. 16. The Leaders of the People cause them to err, and they that are led by them are destroyed.* But should Mr Attorney go about to make this a Libel, he would read it thus: *The Leaders of the People [innuendo, the Governor and Council of New-York] cause them [innuendo, the People of this Province] to err, and they [the People of this Province meaning] that are led by them [the Governor and Council meaning] are destroyed [innuendo, are deceived into the Loss of their Liberty] which is the worst Kind of Destruction.* Or if some Persons should publickly repeat, in a Manner not pleasing to his Betters, the 10th and the 11th Verses of the LVIIth Chap. of the same Book, there Mr Attorney would have a large Field to display his Skill in the artful Application of his *Innuendos*. The Words are, *His Watchmen are all blind; they are ignorant, &c. Yea, they are greedy Dogs, that can never have enough.* But to make them a Libel, there is, according to Mr Attorney's Doctrine, no more wanting but the Aid of his Skill, in the right adapting his *Innuendos*. As for Instance: *His Watchmen [innuendo, the Governor's Council and Assembly] are blind, they are ignorant, [innuendo, will not see the dangerous Designs of His Excellency] Yea, they [the Governor and Council meaning] are greedy Dogs, which can never have enough, [innuendo, enough of Riches and Power.]* Such an Instance as this seems only fit to be laughed at; but I may appeal to Mr Attorney himself, whether these are not at least equally proper to be applied to His Excellency and His Ministers, as some of the Inferences and *Innuendos* in his Information against my Client. Then if Mr Attorney is at Liberty to come into Court, and file an Information in the King's Name, without leave, who is secure, whom he is pleased to prosecute as a Libeller? And as the Crown Law is contended for in bad

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Times, there is no Remedy for the greatest Oppression of this Sort, even though the Party prosecuted is acquitted with Honour. And give me Leave to say, as great Men as any in *Britain*, have boldly asserted, That the Mode of prosecuting by Information (when a Grand Jury will not find *Billa vera*) is a national Grievance, and greatly inconsistent with that Freedom, which the Subjects of *England* enjoy in most other Cases. But if we are so unhappy as not to be able to ward off this Stroke of Power directly, yet let us take Care not to be cheated out of our Liberties by Forms and Appearances; let us always be sure that the Charge in the Information is made out clearly, even beyond a Doubt; for though Matters in the Information may be called *Form* upon Trial; yet they may be, and often have been found to be *Matters of Substance* upon giving Judgment.

Gentlemen; The Danger is great, in Proportion to the Mischief that may happen, through our too great Credulity. A proper Confidence in a Court is commendable; but as the Verdict (whatever it is) will be yours, you ought to refer no Part of your Duty to the Discretion of other Persons. If you should be of the Opinion, that there is no Falshood in Mr *Zenger's* Papers, you will, nay (pardon me for the Expression) you ought to say so; because you don't know whether others (I mean the Court) may be of that Opinion. It is your Right to do so, and there is much depending upon your Resolution, as well as upon your Integrity.

The loss of Liberty to a generous Mind is worse than Death; and yet we know there have been those in all Ages, who for the sake of Preferment, or some imaginary Honour, have freely lent a helping Hand, to oppress, nay, to destroy their Country. This brings to my Mind that saying of the immortal *Brutus*, when he looked upon the Creatures of *Cæsar*, who were very great Men, but by no Means good Men. "You Romans, said *Brutus*, "if yet I may call you so, consider what you are doing; remember that you are assisting *Cæsar* to forge those very Chains, which one day he will make your selves wear." This is what every Man (that values Freedom) ought to consider: He should Act by Judgment and not by Affection or Self-Interest; for, where those prevail, no Ties of either Country or Kindred are regarded, as upon the other Hand, the Man, who loves his Country, prefers its Liberty to all other Considerations,

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tions, well knowing that without Liberty, Life is a Misery.

A famous Instance of this you will find in the History of another brave Roman of the same Name, I mean *Lucius Junius Brutus*, whose Story is well known, and therefore I shall mention no more of it than only to shew the Value he put upon the Freedom of his Country. After this great Man, with his Fellow Citizens whom he had engaged in the Cause, had banished *Tarquin* the Proud, the last King of *Rome*, from a Throne which he ascended by inhuman Murders, and possessed by the most dreadful Tyranny and Proscriptions, and had by this Means amassed incredible Riches, even sufficient to bribe to his Interest many of the young Nobility of *Rome* to assist him in recovering the Crown; but the Plot being discovered, and the principal Conspirators apprehended, among whom were two of the Sons of *Junius Brutus*, it was absolutely necessary that some should be made Examples of, to deter others from attempting the restoring of *Tarquin*, and destroying the Liberty of *Rome*. And to effect this it was, that *Lucius Junius Brutus*, one of the Consuls of *Rome*, in the Presence of the Roman People, sat Judge and condemned his own Sons, as Traitors to their Country: And to give the last Proof of his exalted Virtue, and his Love of Liberty, He with a Firmness of Mind (only becoming so great a Man) caused their Heads to be struck off in his own Presence; and when he observed that his rigid Virtue occasioned a sort of Horror among the People, it is observed he only said, "*My Fellow-Citizens, do not think that this proceeds from any Want of natural Affection; No, The Death of the Sons of Brutus can affect Brutus only; the Loss of Liberty will affect my Country.*" Thus highly was Liberty esteemed in those Days that a Father could sacrifice his Sons to save his Country. But why do I go to Heathen *Rome*, to bring Instances of the Love of Liberty; the best Blood in *Britain* has been shed in the Cause of Liberty; and the Freedom we enjoy at this Day, may be said to be in a great Measure owing to the glorious Stand the famous *Hamden*, and others of our Countrymen, made against the arbitrary Demands, and illegal Impositions, of the Times in which they lived; who rather than give up the Rights of *Englishmen*, and submit to pay an illegal Tax of no more, I think, than

three Shillings, resolved to undergo, and for the Liberty of their Country, did undergo the greatest Extremities, in that arbitrary and terrible Court of *Star-Chamber*, to whose arbitrary Proceedings (it being composed of the principal Men of the Realm, and calculated to support arbitrary Government) no Bounds or Limits could be set, nor could any other Hand remove the Evil but a Parliament.

Power may justly be compared to a great River, while kept within in its due Bounds, is both Beautiful and Useful; but when it overflows its Banks, it is then too impetuous to be stem'd, it bears down all before it, and brings Destruction and Desolation wherever it comes. If then this is the Nature of Power, let us at least do our Duty, and like wise Men (who value Freedom) use our utmost Care to support Liberty, the only Bulwark against lawless Power, which in all Ages has sacrificed to its wild Lust and boundless Ambition the Blood of the best Men that ever liv'd.

I hope to be pardoned, Sir, for my Zeal upon this Occasion: It is an old and wise Caution, *That when our Neighbour's House is on Fire, we ought to take Care of our own.* For though, blessed be God, I live in a Government where Liberty is well understood, and freely enjoyed; yet Experience has shewn us all (I'm sure it has to me) that a bad Precedent in one Government, is soon set up for an Authority in another; and therefore I cannot but think it mine, and every Honest Man's Duty, that (while we pay all due Obedience to Men in Authority) we ought at the same Time to be upon our Guard against Power, wherever we apprehend that it may effect Ourselves or our Fellow-Subjects.

I am truly very unequal to such an Undertaking on many Accounts. And you see I labour under the Weight of many Years, and am born down with great Infirmities of Body; yet Old and Weak as I am, I should think it my Duty, if required, to go to the utmost Part of the Land, where my Service could be of any Use in assisting to quench the Flame of Prosecutions upon Informations, set on Foot by the Government, to deprive a People of the Right of Remonstrating, (and complaining too) of the arbitrary Attempts of Men in Power. Men who injure and oppress the People under their Administration provoke them to cry out and complain; and then make that very Complaint the Foundation for new Oppressions and

Persecutions.

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Prosecutions. I wish I could say there were no Instances of this Kind. But to conclude; the Question before the Court and you, Gentlemen of the Jury, is not of small nor private Concern, it is not the Cause of a poor Printer, nor of *New-York* alone, which you are now trying; No! It may in its Consequence, affect every Freeman that lives under a British Government on the Main of *America*. It is the best Cause. It is the Cause of Liberty; and I make no Doubt but your upright Conduct this Day, will not only entitle you to the Love and Esteem of your Fellow-Citizens, but every Man, who prefers Freedom to a Life of Slavery, will bless and honour You, as Men who have baffled the Attempt of Tyranny; and by an impartial and uncorrupt Verdict, have laid a noble Foundation for securing to ourselves, our Posterity, and our Neighbours, That to which Nature and the Laws of our Country have given us a Right,—The Liberty—both of exposing and opposing arbitrary Power (in these Parts of the World, at least) by speaking and writing Truth.

[Here Mr Attorney observed, that Mr Hamilton had gone very much out of the Way, and had made himself and the People very merry: But that he had been citing Cases, not at all to the Purpose; he said, there was no such Cause as Mr Bushel's or Sir Edward Hale's before the Court; and he could not find out what the Court or Jury had to do with Dispensation, Riots, or unlawfull Assemblies: All that the Jury had to consider of, was Mr Zenger's Printing and Publishing two scandalous Libels, which very highly reflected on his Excellency and the principal Men concerned in the Administration of this Government, which is confessed. That is, the Printing and Publishing of the Journals set forth in the Information is confessed. And concluded; that as Mr Hamilton had confessed the Printing, and there could be no doubt but they were scandalous Papers, highly reflecting upon his Excellency, and the principal Magistrates in the Province. And therefore be made no doubt but the Jury would find the Defendant Guilty, and would refer to the Court for their Direction.]

Mr Chief Justice. Gentlemen of the Jury. The great Pains Mr Hamilton has taken, to shew how little Regard Juries

are to pay to the Opinion of the Judges; and his insisting so much upon the Conduct of some Judges in Tryals of this kind; is done, no doubt, with a Design that you should take but very little Notice of what I might say upon this Occasion. I shall therefore only observe to you, That, as the Facts or Words in the Information are confessed, the only Thing that can come in Question before you is, Whether the Words, as set forth in the Information make a Libel. And that is a Matter of Law, no doubt, and which you may leave to the Court. But I shall trouble you no further with any Thing more of my own, but read to you the Words of a learned and upright Judge * in a Case of the like Nature.

'To say that corrupt Officers are appointed to administer Affairs, is certainly a Reflection on the Government. If People should not be called to account for possessing the People with an ill Opinion of the Government, no Government can subsist. For it is very necessary for all Governments that the People should have a good Opinion of it. And nothing can be worse to any Government, than to endeavour to procure Animosities, as to the Management of it; this has been always looked upon as a Crime, and no Government can be safe without it be punished.'

'Now you are to consider, whether these Words I have read to you, do not tend to beget an ill Opinion of the Administration of the Government? To tell us, that those that are employed know nothing of the Matter, and those that do know are not employed. Men are not adapted to Offices, but Offices to Men, out of a particular Regard to their Interest, and not to their Fitness for the Places; this is the Purport of these Papers.'

Mr Hamilton. I humbly beg your Honour's Pardon; I am very much misapprehended, if you suppose what I said was so designed.

Sir, you know, I made an Apology for the Freedom I found myself under a Necessity of using upon this Occasion. I said, there was nothing Personal designed; it arose from the Nature of our Defence.

The Jury withdrew, and in a small Time returned, and being asked by the Clerk, Whether they were agreed of their Verdict, and whether John Peter Zenger was guilty of Printing and Publishing the Libels in the Information mentioned?

They

* Chief Justice Holt in Tutchin's Case.

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They answered by *Thomas Hunt*, their Foreman, *Not Guilty*. Upon which there were three Huzza's in Hall, which was crowded with People, and the next Day I was discharged from my Imprisonment.

City of *New-York*. } At a Common-Council, held at the City-Hall of the said City, on *Tuesday* the sixth Day of *September*, *Anno Domini* 1735, the Mayor, Deputy-Mayor, Recorder, and Aldermen, &c. being present, it was ordered that *Andrew Hamilton*, Esq; of *Philadelphia*, Barrister at Law, be presented with the Freedom of this Corporation, which was drawn up as follows.

City of *New-York*. } *PAUL RICHARDS*, Esq; Mayor, the Recorder, Aldermen, and Assistants of the City of *New-York*, convened in Common-Council, To all to whom these Presents shall come Greeting. Whereas Honour is the just Reward of Virtue, and publick Benefits demand a publick Acknowledgment: We therefore, under a grateful Sense of the remarkable Service, done to the Inhabitants of this City and Colony, by *Andrew Hamilton*, Esq; of *Pennsylvania*, Barrister at Law, by his learned and generous Defence of the Rights of Mankind, and the Liberty of the Press, in the Case of *John Peter Zenger*, lately tried on an Information exhibited in the Supream-Court of this Colony, do by these Presents bear to the said *Andrew Hamilton*, Esq; the publick Thanks of the Freemen of this Corporation for that signal Service, which he chearfully undertook under great Indisposition of Body, and generously performed, refusing any Fee or Reward: And in Testimony of our great Esteem for his Person, and Sense of his Merit, do hereby present him with the Freedom of this Corporation. These are therefore to

Certify and Declare, that the said *Andrew Hamilton*, Esq; is hereby admitted, received, and allowed to be a Freeman and Citizen of the said City: To Have, Hold, and Enjoy and Partake of all the Benefits, Liberties, Privileges, Freedoms, and Immunities whatsoever, granted or belonging to a Freeman and Citizen of the same City. In Testimony whereof, the Common-Council of the said City, in Common-Council assembled, have caused the Seal of the said City to be hereunto affixed this twenty ninth Day of *September*, *Anno Domini*, One Thousand Seven Hundred and Thirty Five.

By Order of the Common-Council,

William Sharpas, Clerk.

Which was accordingly Presented in a Gold Box, which weighed five Ounces and a half, made in the most neatest manner: Round the Lid of the Box, not only the Arms of the City of *New-York* are Engraven, but also this Motto in a Garter;

DEMERSÆ LEGES-TIMEFACTA
LIBERTAS-HÆC TANDEM E-
MERGUNT.

On the In-side of the Lid of the Box there is Engraven, in a flying Garter, these Words,

NON NUMMIS, - VIRTUTE PARATUR.

And on the Front of the Rim of the said Box, is Engraven part of *Tully's* With;

ITA CUIQUE EVENIAT, UT DE
REPUBLICA MERUIT.

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Proceedings

Proceedings against JOHN PORTEOUS, lately one of the Captain-Lieutenants of the City-Guard of Edinburgh, for Murder. Anno 1736. 9 GEO. II.

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The Libel,
or Indict-
ment.

JOHAN PORTEOUS, lately one of the Captain-Lieutenants of the City-Guard of *Edinburgh*, now Prisoner within the Tolbooth of the said City, you are indicted and accused at the Instance of *Duncan Forbes*, Esq; his Majesty's Advocate for his Highness's Interest; That whereas by the Law of God, the common Law, the municipal Law and Practice of this Kingdom, and the Laws of all other well governed Realms, Murder and Slaughter, Maiming and Wounding with mortal Weapons any of the Subjects of such Realms, and the ordering, commanding and causing any Band, or Number of Men, armed with Firelocks and other mortal Weapons, to fall upon, wound, murder, and destroy Numbers of his Majesty's Subjects, innocently and lawfully assembled, by firing sharp Shot amongst them, whereby Multitudes are, or may be, endangered, and many Men, Women, and innocent Children are, or may be, killed or wounded, without any just Cause or Occasion, and without lawful Warrant; more especially, when committed in the publick Streets of a City, by a Person lawfully commissioned by the Magistrates thereof to command such Band of armed Men, for the Preservation of Peace and Order, and for the Defence of the Inhabitants, and others resorting thereto, are Crimes of a high Nature, and severely punishable; Yet true it is, and of Verity, That you the said *John Porteous*, have presumed to commit, and are guilty and accessory, or Art and Part of all and every, or one or other of the foresaid Crimes aggravated as aforesaid: In so far as, upon the fourteenth Day of *April* last, or one or other of the Days of the said Month, when the deceased *Andrew Wilson*, sentenced to be hanged to Death by the High Court of Justiciary, was to be executed at the *Grass-Market* of the City of *Edinburgh*, you being at that time one of the Captain-Lieutenants of the Town-Guard

of the said City, lawfully commissioned by the Magistrates and Town-Council thereof; and in the ordinary Course of Rotation, with the other Officers of the said Guard, being ordered to attend at the said Execution, to preserve the Peace, and support the Executioner in the Discharge of his Duty, having under your Command a Detachment of about seventy Men, you did then attend in the said *Grass-Market* accordingly; and after the said *Andrew Wilson* had hung upon the Gallows erected for his Execution, until he was dead, at least for a considerable Time, and so long as there was Ground to conclude he was dead; you shaking off all Fear of God, and Respect to his Majesty's Laws, and conceiving a most wicked and malicious Purpose of destroying, wounding, and maiming Numbers of his Majesty's Subjects, the Inhabitants of the said City of *Edinburgh*, and others there assembled at the said Execution, without any just Cause or necessary Occasion, ordered the said Detachment of the Guard, under your Command, to fire upon the People so assembled at the said Execution. And the Men, at least several of them, having fired, as it seems you apprehended, over the Heads of the Multitude, so as to avoid doing them harm; you with Threats and Imprecations repeated your Commands to fire; calling out to them, *to level their Pieces and be damn'd*, or Words to that purpose; and at or about the same time, you levelled the Firelock that was in your own Hand, taking aim at *Charles Husband*, Servant to *Paul Husband*, Confectioner in the Abbey of *Holy-rood-house*, and most wickedly and murderously fired at him; whereupon he immediately dropped to the Ground, having received a Wound by a Bullet, or large Drop of Lead, on the Left side of his Head, which pierced into his Brain, and another large Wound likewise by a Bullet, or large Drop of Lead, on the Left side of his

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Neck; and a third Wound in his Body, and a fourth Wound in his left Hand, at least a mortal Wound or Wounds, whereof he died in some short Space thereafter: At least, you did so level your Piece, and appeared to take your Aim at some one of the innocent Multitude, who happened to stand directly over-against you, and you did fire, and upon your so firing, the said *Charles Husband*, at least one or other of the Persons particularly after mentioned, or more of them, did immediately drop to the Ground, having received a mortal Wound or Wounds, whereof they soon after died. And by your said Example and Command severals of the said Guard, to the Number of twenty, less or more, did at the same time with you, or soon after you, fire upon the innocent Multitude; whereby all, or one or more of the following Persons received mortal Wounds, whereof they soon after died, viz. *Archibald Ballantyne*, Son to *John Ballantyne* younger, Dyster in *Dalkeith*, received several Wounds, with Bullets or large Drops of Lead, which pierced into his Body, at least a mortal Wound or Wounds in his Head or Body, whereof he died a few Days thereafter. And *John Anderson*, Son to *George Anderson* in *Craighead*, Drover, received a Wound in the Head with a Bullet or large Drop of Lead, at least a mortal Wound or Wounds in his Head or Body, so that he died in few Hours thereafter. And the following Persons were grievously maimed, hurt, and wounded, to the great Danger of their Lives, viz. *Margaret Arthur*, alias *Airth*, Residenter in the *Canongate*, near the *Water-gate* thereof; *Jean Peal*, Servant to *James M'Douell*, Merchant in *Edinburgh*; *David Wallace*, Journeyman Wright in *Edinburgh*; *James Philip*, late Servant to ——— *Lauder*, Esq; Residenter in the *Canongate*; *David Kidd*, Taylor in *Edinburgh*; *Patrick Spalding*, Apprentice to *David Mitchel*, Jeweller in *Edinburgh*; *James Lyle*, and *Alexander Wallace*, both Servants to *James Wright*, Staymaker in *Edinburgh*; *John Miller*, Taylor in *Edinburgh*; *David Ogilvie*, Writer in *Edinburgh*; and *James Nivan*, late Servant to *William Sellars*, Writer in *Edinburgh*, Residenter in the *Potterrow*. At least, the said Persons were so killed, wounded, and maimed, by the firing in manner, and by the direction as aforesaid, and by the second firing after mentioned: for not contented with the Barbarities thus committed, after you had,

with the said Company or Detachment of the City-Guards, marched towards, or into the Place or Street called the *West-Bow*, you, without just Cause or Occasion, again ordered the Men under your Command to face about and fire upon the People; and at or about the same time, you fired a Musket or Firelock that was in your own Hand, having either reloaded, or caused to be reloaded your own Piece, or taking another out of the Hand of one of the Guard; and several of the said Guard did, upon that second Example and Command of yours, fire upon the Multitude, whereby *Alexander M'Neil*, Son to *Edward M'Neil*, Indweller in *Morton-hall*, received a Shot in the Head, with a Bullet or Lead Drop, which pierced into his Brain, at least, a mortal Wound or Wounds in his Head or Body, so that he died thereof in a few Days thereafter; and *Margaret Gordon*, Servant to *William Ogilvie*, Taylor of *St Mary-Wynd* in *Edinburgh*, received a Wound in the Head above her left Eye, with a Bullet or large Drop of Lead, which pierced into her Brain, at least a mortal Wound or Wounds in her Head or Body, so that she died thereof in a short Space thereafter; and *Henry Graham*, Taylor in *Canongate*, received a Wound in the Head, with a Bullet or large Drop of Lead, which pierced into his Brain, at least, a mortal Wound or Wounds in his Head or Body, of which he died in a few Hours thereafter: At least, by this, and the other Firings by you, and by your Order and Example above mentioned, all, or one or more of the Persons particularly above recited, as having been killed, received mortal Wounds of which they soon after died; and all, or one or more of the Persons above recited to have been wounded, were grievously maimed, hurt, and wounded, to the great Danger of their Lives: At least, at the Time and Place aforesaid, the said Persons above-named and mentioned, to have been respectively killed and wounded, were all, or one or more of them, wickedly and maliciously slaughtered, murdered and wounded, by Wounds severally given them by mortal Weapons. And you are Guilty, Art and Part, of the Slaughter, Murder, and Wounding of all, or one or more of them. All which, or any Part thereof being found proven by the Verdict of an Assize, in Presence of the Lord Justice General, Justice Clerk, and Commissioners of Justiciary, you ought to be most exemplarily punished

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shed with the Pains of Law, to the Terror of others to commit the like in Time coming.

CH. ARESKINE, A.D.

Interlocutor of Relevancy pronounced by the said Lords, upon the 6th of July, 1736.

"The Lord Justice-Clerk, the Lords Commissioners of Justiciary, having considered the Indictment, pursued at the Instance of *Duncan Forbes, Esq;* His Majesty's Advocate, for His Highness's Interest, against *John Porteous Pannel, Fand*, That the Pannel having, at any of the Times and Places libelled, fired a Gun among the People assembled at the Execution libelled, or having given Orders to the Soldiers, under his Command, to fire, and thereupon they, the Soldiers, or any of them, having accordingly fired; and, upon the Firing, either by himself or them, the Persons, mentioned in the Indictment, or any of them, were killed or wounded; or the Pannel's being Art and Part of any of the foresaid Crimes, are, *separatim*, relevant to infer the Pains of Law: But allowed the Pannel to adduce what Evidence he could, with respect to his Behaviour at the Time the foresaid Crimes are libelled to have been committed, for taking off the Circumstances which should be brought for inferring his being guilty, or Art and Part of the Crimes libelled; and remitted the Pannel, and the Indictment as found relevant, to the Knowledge of an Affize."

Names of the Affize, or Petit-Jury, stand as follow.

Sir *John Inglis* of *Cramond*,
Alexander Gibson of *Pentland*,
George Haliburton of *Fordel*,
James Baird of *Chester-hall*,
John Hogg of *Cammo*,
Thomas Dundas of *Lethem*,
Alexander Brand of *Brandfield*,
John Jollie Vintner in *Edinburgh*,
James Hunter Wright there,
William Wight Baxter there,
John Bell Brewer there,
James Davidson Bookseller there,
David Inglis Merchant there,
Alexander Sharp Merchant there,
Patrick Manderston Merchant there.

The Pannel's judicial Confession.

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The Pannel *John Porteous* judicially confessed, That, Time and Place libelled, the several Persons mentioned in the Indictment to have been killed and wounded, viz. *Archibald Ballantine*, Son to *John Ballantine* younger, Dyster in *Dalkeith*; *Margaret Arthur* alias *Airth*, Residenter in the *Canon-gate*, near the *Water-gate* thereof; *John Anderson*, Son to *George Anderson* in *Craighead*, Drover; *Jean Peat*, Servant to *James McDoual*, Merchant in *Edinburgh*; *David Wallace*, Journeyman Wright in *Edinburgh*; *James Philip*, late Servant to — *Lauder, Esq;* Residenter in the *Canon-gate*; *David Kid*, Taylor in *Edinburgh*; *Patrick Spaldane*, Apprentice to *David Mitchell*, Jeweller in *Edinburgh*; *James Lyal* and *Alexander Wallace*, both Servants to *James Wright*, Stay-maker in *Edinburgh*; *John Miller*, Taylor in *Edinburgh*; *David Ogilvie*, Writer in *Edinburgh*; and *James Nevin*, late Servant to *William Sellers*, Writer in *Edinburgh*, now Residenter in the *Potter-row*; *Alexander McNeil*, Son to *David McNeil*, Indweller in *Morton-hall*; *Margaret Gordon*, Servant to *William Ogilvie*, Taylor in *St Mary-Wynd* in *Edinburgh*; *Henry Graham*, Taylor in the *Canon-gate-head*; and *Charles Husband*, Servant to *Paul Husband*, Confectioner in the Abbey of *Holy-rood-house*; were so killed or wounded, by Firing proceeding from the Party of the City-Guard then under his Command, as mentioned in the Indictment.

His Majesty's Advocate, for proving his Libel, adduced upon the 19th of July 1736, the Witnesses after deponing, viz.

Witness I. James Drummond, Merchant, and Residenter in *Edinburgh*, aged 30 Years, or thereby, married, solemnly sworn, purged of Malice, partial Council, examined and interrogate, deponed, That Time and Place libelled, and after *Andrew Wilson* had hung some time upon the Gallows, about a Quarter of an Hour, as the Deponent thinks, he saw the Executioner going up the Ladder, as the Deponent apprehended, to cut him down; upon which, he saw some small Stones thrown by the Mob at the Executioner, some whereof, the Deponent believes, might have fallen upon the Guard. Upon which,

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which, he saw the Pannel advance from the Guard westward, resting his Firelock upon his Thigh, as if he had been bending it, and thereafter saw him raise it to his Breast, moving from one Point to another; and soon thereafter, the Deponent heard a Shot from the Place where the Pannel was standing, but did not observe whether the Shot came from Captain *Porteous's* Firelock. And, much about the same time, observed one of the Soldiers to go out of his Rank Westward, and upon the North side of Captain *Porteous*, and saw him go farther West than the Place where Captain *Porteous* was; the side of the Window, where the Deponent was standing in *Robertson's* House, covered the said Soldier from the View of the Deponent, by the time the first Shot was fired; and which Soldier had a Gun and a screwed Bayonet in his Hand, levelled, with the Butt-end of it at his Breast: And the Deponent did apprehend at the time, that Captain *Porteous* had fired, because he saw him in a firing Posture; and immediately heard a Shot, and saw a Man, in a few Minutes thereafter, as soon as the Mob dispersed, lying upon the Street, upon a Line whether the Deponent saw Captain *Porteous's* Piece directed, and that the above-named Soldier came from the Body of the Guard, which was behind Captain *Porteous*. *Causa scientiæ patet*: And this was Truth, as he should answer to God.

Witness II. Sir *William Forbes*, Advocate, aged 30 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and after the deceas'd *Andrew Wilson* had hung about 20 or 25 Minutes upon the Gallows; the Deponent, from a Window in *Orr's* Stabler's House, opposite but a little to the Westward of the Gallows, saw the Executioner go up some Steps of the Ladder, as the Deponent believed, to cut down the said deceas'd, and saw thereupon Stones thrown at the Executioner. Upon which the Executioner immediately retired to the Guard, and the Mob continued throwing of Stones, so that the Deponent does believe, some of the Stones might have touched the Guard; and about this time, the Guard were drawing together, to the North and West of the Gallows, where the Captain was standing, and did soon thereafter see the Pannel advancing Westward, fire his Gun among the People assembled at the Exe-

cution, and observed the Fire and Smoak issuing out at the Muzzle of his Piece, to the best of the Deponent's Observation, which he thought at the time very distinct, and that the said Shot was the first which the Deponent heard; and the Deponent at the same time did imagine, that the Pannel had fired the Shot high; but whether that proceeded from the Situation that his Firelock was in, or from the Appearance that the Fire and Smoke made, that issued out of his Piece, the Deponent could not particularly charge his Memory. That thereafter, the Deponent heard several dropping Shots, about 20, but cannot be positive as to the Number. That when the foresaid Facts happened, the Deponent was upon the South side of the Street, and the Pannel to the North of the Middle of the Street, almost opposite to the Window where the Deponent was; and when the Pannel so fired, the Deponent did not observe any Soldiers so far advanced Westward from the Body of the Guard as the Pannel was. *Causa scientiæ patet*. And this was the Truth, as he should answer to God.

Witness III. Mr *William Fraser*, Son to the Lord *Salton*, aged 24 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was in a Window in one *Orr's* House, in the *Grass-market*, the South side of the Street, that Day that *Andrew Wilson* was executed; that after *Wilson* had hung some time on the Gallows, he saw the Executioner go up some Steps of the Ladder, as he apprehended, to cut him down; and then saw the Mob throw Stones and Dirt at him, upon which the Hangman came down, and went in amongst the Soldiers that were standing at the foot of the Scaffold: That soon after the Hangman had come down, he saw the Pannel present, and level his Gun, moving the Muzzle too and fro, and then saw him fire, and; to the best of his Knowledge and Apprehension, saw the Smoke issue out of the Mouth of the Piece; that immediately thereafter, within a Second or two, he heard several dropping Shots fired by the Soldiers, who were there on their Arms; that he thought the dropping Shots he then heard, came from near the Place where the Pannel was standing. And *deponed*, That, at the Time aforesaid, the Pannel fired his Gun, he did not observe any of the Soldiers advance before him, and present their Guns. *Causa scientiæ patet*.
And

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And this was Truth, as he should answer to God.

Witness IV. Mr. William Urquhart, of Meldrum, aged 38 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was present at Andrew Wilson's Execution the Time, libelled, in the House of one Orr, on the South side of the Street, in Company with Sir William Forbes and Mr Fraser, the preceeding Witnesses; That after Wilson had hung some time, he saw the Executioner go up some Steps of the Ladder, in order to cut him down, as he apprehended, and saw the Mob throw several Stones at him, upon which he came down; thereafter the Mob continued to throw Stones, some of which fell among the Guard; whereupon he heard several dropping Shots fired by the Soldiers. That he saw the Pannel present his Piece, immediately heard a Shot, which he apprehended was shot by the Pannel; but did not observe it so narrowly, as to see the Smoke or Fire issue out of his Piece. *Causa scientiæ patet.* And this is the Truth, as he shall answer to God.

Witness V. James Dewar of Vogrie, aged 64 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, at Andrew Wilson's Execution he was in a Window in his own House, at the Foot of the West-bow, on the East side of the Way, that he saw the Hangman go up some Steps of the Ladder, after Wilson had hung some time, and saw the Mob throw some Stones, one of which hit the Executioner on the Face, upon which he came down the Ladder; whereupon he saw the Pannel present his Piece and fire, which was the first Shot he heard or saw: That when he saw the Pannel fire, his Side was to the Deponent, and that the Pannel was then standing on the East-side of the Gibbet, and that he fired his Piece to the West, and *deponed*, he saw the Fire of the Powder from the Pan, and heard the Report of the Shot. *Deponed*, That when the Pannel fired, as aforesaid, he was standing on the South-east-side of the Scaffold. *Deponed*, That Wilson was cut down, not by the Hangman, but by some that were standing at the Foot of the Gallows; and that Wilson was cut down before he heard any Shots. *Deponed*, That he stood at his own Window, before Wilson was thrown

over, and continued looking at the Place of Execution, till he was cut down, and heard the Shots, as before-mentioned. And being interrogate, what kind of Clothes Captain Porteous had then on, declared he could not be positive, but believes they were red Clothes; but is positive that he knew Captain Porteous's Face, when he saw him fire. *Causa scientiæ patet.* And this was Truth, as he shall answer to God.

Witness VI. George Drummond, Esq; one of the Commissioners of the Customs, aged — Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, at the Time and Place libelled, the Deponent was in the House of Bailie Haliburton, on the right Hand on the North-side of the Corner of the strait Bow, the third Story, at the time of the Execution of Andrew Wilson; and, from a Window of the said House, after the Criminal was thrown over, and had hung for 15 or 16 Minutes, the Executioner was about going up the Ladder, and after he went up two or three Steps, he observed several Stones thrown at him, which made him return; and while he was on the Ground, he observed his Nose bleeding; and, at this time, he observed one or two Persons, or more, standing at the Foot of the Gallows, one of whom, stretching up his Arm with a Knife, he observed, cut the Rope, the Executioner having mixed with the Soldiers. He did observe the throwing of Stones to continue, and some of them fell amongst the Soldiers. *Deponed*, That, immediately thereafter, he observed one of the Soldiers advance a little before Mr Porteous, to the Westward, with a Gun in his Hand, which he presented, and immediately thereupon the Deponent heard a Shot, which he imagined to be from that Soldier; but did not observe Fire or Smoke, though at the time, he concluded it was from that Soldier's Gun, and is positive, That that was the first Shot that was fired; and the Deponent did not think that the Stones that were thrown did give any just Cause for the firing. *Deponed*, That, about the time, when he observed the Soldier present his Gun, as said is, he also observed the Pannel holding his Gun in his Hand in a Level; but is not sure of his putting the Butt of it to his Shoulder. *Deponed*, That after the said first Shot, within a Minute he heard another, and so it continued till

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about the Number of 18 or 20 ; and this was at the time of the Firing observed by the Deponent ; but, within some Minutes thereafter, there was a second Firing, which he did hear, and, upon hearing, came to the Window, and observed some Lime fall from an opposite House, which he judged to have been occasioned by the Bullets ; and as to the 18 or 20 dropping Shots in the first Firing, they were from the Soldiers immediately behind the Pannel, betwixt whom and them he observed no Person interposed : And he observed, the time of the first Shot, the Pannel's Face was looking Westward, as was all the Soldiers behind him. *Deponed*, That the Soldiers, at that time, who fired, were, to the Deponent's best Remembrance, to the Northward of the Scaffold ; and the Pannel was then, to the best of his Remembrance, either upon a Line to the Gibbet, or a little Westward of it. Farther *Deponed*, That the Soldier who first fired, as said is, advanced from behind the Pannel, and past upon his right Hand to the Northward of him. *Causa scientia patet*. And this was the Truth, as he should answer to God.

Witness VII. William Johnson Drug-gist in *Edinburgh*, aged 40 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, Time and Place libelled, he, the Deponent, being present at the Execution of *Andrew Wilson*, did observe the Pannel take a Gun out of a Soldier's Hand, at which Time he was standing betwixt the *Corn-Market* and one *Tod's Shop*, which is under *Bailie Haliburton's House*, thereupon he observed the Pannel advance some Steps Westward, and did see him present and level his Gun ; *that is to say*, hold it out and fire amongst the Multitude, and did observe the Smoke come out of the Gun : And *deponed*, That this was the first Shot he heard ; which Shot immediately followed after the Criminal was cut down by a Hand standing at the Foot of the Gibbet ; and the Deponent, at the time, was standing in a Window in the House of one *Gardiner Horse-Farrier*, by the *Musewell* ; and when the Pannel was taking the Gun of the Soldier's Hand, he appeared to be in a Passion ; and it was some short time before he was Master of the Gun. *Deponed*, That, to the best of his Remembrance, the Pannel was cloathed in red ; but he being well acquainted with the Pannel's Face, he is positive that he

was the Person that took the Gun, and fired, as aforesaid ; and *deponed*, That, he believes, there was about 30 Yards Distance betwixt the Window where the Deponent was, and the Pannel, at the time of the first Firing. *Causa scientia patet*. And this was Truth, as he should answer to God.

Witness VIII. Mark Sprot, Skinner, and one of the Constables of *Edinburgh*, aged 28 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, as he stood in *William Orr* the Stabler's Window, South-side of the *Grass-Market*, he saw *Wilson* the Criminal cut down from the Gibbet ; upon which Occasion he did not observe that there was any greater Disturbance than usual at Executions : That, a very little while after the Criminal was so cut down, he observed the Pannel advance before the Soldiers ; and, upon the North-side of the Scaffold, over against the Gibbet, he saw him fire his Piece towards the West, and the Smoke issue out of the Mouth of his Gun ; this, he says, was the first Shot that was fired ; but immediately, upon the back of that, a tall Man, with his own Hair, about the third behind the Pannel, as he thinks, fired off his Piece likewise towards the West, but up in the Air, over the Heads of the Multitude ; that, very soon after, several other dropping Shots followed : after which, when the People fell back and opened, he observed a young Man lying upon the Ground as dead, directly opposite to the Place where the Pannel fired. *Causa scientia patet*. And this was the Truth, as he should answer to God.

Witness IX. George Campbell Wright in *Edinburgh*, aged 28 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent stood in the Window of Mr *Carmichael's House* in the South-side of the *Grass-Market*, directly opposite to the Gibbet ; that a very little after *Wilson* was cut down, he observed the Pannel, with four or five of his Men about him, and that as he pointed his Piece too and fro towards the Multitude, he observed him receive a Stroke by a Stone thrown from behind the Scaffold, off which it rebounded, and struck him ; upon which he immediately fired his Piece : but whether this was the first Shot or not, the Deponent could not tell, for there

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there was three or four fired much about the same time; but that the Pannel fired he is sure, for he saw Fire and Smoke issue from his Piece. That, upon these Shots already mentioned, he saw a Man fall down upon his Back on the Street; That, after this, he saw the Pannel raise his Musket, and put his Hand to the Cartridge Box, as if he intended to load again; but does not know what followed upon this, because he immediately lost sight of him. *Deponed*, That when the Pannel fired his Piece, as above, he was standing towards the South-east Corner of the Scaffold, and pointed his Piece towards the South-west; that the Pannel's Fire, with the Shots that went off at the same time, were the first that were made on that occasion. *Causa scientiæ patet*. And this was the Truth, as he should answer to God.

Witness X. James Bald, Merchant in Edinburgh, aged 32 Years, or thereby, Widower, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent stood in the same Window with the immediate preceeding Witness, or, at least, in a Window in the same Room: That, a little after *Wilson* was cut down from the Gibbet, he saw the Pannel advance a little Westward from the *Corn-Market*, towards the South-side of the Gibbet, and fire off his Piece Westward; towards the *Muse-Well*: That, at this time, he saw none of the Soldiers near him, nor observed any other Fire but his; and before there was any more Firing, when the Multitude fell back, he saw a Man lying dead towards the Place that the Pannel pointed his Piece; that he is sure the Pannel fired, since he saw the Fire and Smoke issue from his Piece. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Witness XI. Andrew Daw, Servant to James Montgomerie, Brewer, in the *Potter-row*, aged 22 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent was standing at the Foot of *Robertson* the Stabler's Clofs, when *Wilson* was cut down from the Gibbet; immediately after which, the Pannel, who was standing in the middle of the Street, between the Deponent and the *Corn-Market*, fired his Piece towards the Place where the Deponent was standing; upon which, a Baxter in the *Abbey*, called *Charles Huf-*

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band, dropt just by the Deponent, and his; the Deponent's Coat, was torn in the Shoulder with the same Shot: That he heard the Report of the Captain's Piece, though he neither saw the Fire nor the Smoke; yet he is sure the Pannel fired, because he saw no other Piece presented at the same time. That the Pannel, when he fired, as above, was as near to the Deponent, as the End of the Table, where he now stands, is to to the West End of this Room. *Deponed*, That the Shot, mentioned to be made by the Pannel, was the first he heard that Day. *Deponed*, That, during the whole time of the Execution he never came nearer the Scaffold than *Robertson's* Clofs-Foot; (by *Robertson's* Clofs-Foot, is meant the End nearest the *Grass-Market*.) *Causa scientiæ patet*. And this was Truth, as he should answer to God; and declared he could not write.

Witness XII. Walter Sheargold, In-dweller in Edinburgh, aged 28 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was present the Time and Place libelled; and after the Criminal *Wilson* was cut down, he saw Captain *Porteous* fire his Gun, holding the same straight out at the Multitude; and that the Deponent was then within three Yards of the Captain, when he saw him fire; and that after he had fired, he heard him call, *Fire*, then heard some Shots; but he does not know from what Hand they came; for he immediately retired to the *Lawn-Market*. *Deponed*, That when the Pannel fired, his left Hand was towards the Scaffold, and he fired towards the *West-port*. *Deponed*, That the Scaffold was nearer to the *West-port*, than the Pannel was when he fired; that is, the Pannel was nearer to the *Corn-Market*. *Deponed*, That this Shot, by the Pannel, was the first that he heard at that time, and that he was present all the while of the Execution; that he was so near, as to see the Fire and the Colfin fly out of the Pannel's Gun. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Witness XIII. John Richie, Servant to Mr Archibald Murray Advocate, aged 17 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, the Time and Place libelled, the Deponent was present at the Execution of *Andrew Wilson*; and after the Criminal was cut down, he saw and heard about three Shots

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Shots fired; and then he heard a fourth Shot, which was by Captain *Porteous*, and that he saw a Man fall down; but the Deponent imagined, it was from the Pressure of the Croud. That there was very short time betwixt the Shots; but that, which was by Captain *Porteous*, was last in Order. That after the Criminal was cut down, the Guard drew towards the North-side of the Scaffold; that the Deponent was standing within two or three Yards of the Foot of *Robertson's* Clofe, when he saw and heard the Firing. *Deponed*, He heard the Pannel mention the word *Fire*, before the Firing. *Deponed*, That the Pannel was, to the best of the Deponent's Remembrance, standing as far West as the Gallows; but he cannot be very positive, the Mob and Croud were such, that he could not very distinctly discern. *Deponed*, That the Shots, mentioned by the Deponent, first three, and then a fourth, was the first he heard that time. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Witness XIV. Thomas Cruikshanks, Servant to *Thomas Frotter*, Brewer in *Edinburgh*, aged 22 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent, being upon the Causey, on the South-side of the Scaffold, saw the Pannel, who was then standing upon the North-side of the Scaffold, fire the Gun, that was in his Hand, upon the Multitude, the Point of the Piece being directed Westward, and saw the Fire and Smoke issue out of the Muzzle of the Gun that was in the Pannel's Hand. And farther *deponed*, That the Pannel was standing at the North-side of the Scaffold, and at that End of it which is next the *Bow*: And being interrogate, if the said Shot, that the Pannel fired, was the first Shot, *deponed*, That it was the first Shot; but that several other Shots followed immediately thereafter. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Witness XV. James Nelson, Gardener in the *Bull Clofe* of *Edinburgh*, aged 31 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent being standing within a Foot of the Turnpike, near the *Muswell*, saw the Pannel, who was then standing upon the North-side of the Scaffold, a little to the Eastward where the Gallows was, and saw the Pannel ad-

vance Westward, towards the Multitude, with his Firelock in his Hand, moving it too and again, as if he had been beating back the People; and at the third or fourth Motion, saw the Pannel fire the Piece that was in his Hand, upon the Multitude, pointing it Westward, and saw the Smoke issue out at the Muzzle of the said Piece: That this was the first Shot which the Deponent heard, which was soon followed by others; for the Deponent observed the Pannel, after he had fired his Piece, retire some Yards to the Soldiers, and saw five or six of those Soldiers advance, and fire upon the Multitude; and soon thereafter, when the Multitude were beaten off, the Deponent saw a Boy with black Hair, lying within 10 Yards of the Turnpike where the Deponent was standing, and saw four other Persons lying at different Places upon the Street, and saw the first mentioned Boy bleeding at the Ear. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Witness XVI. William Gordon, Baxter, and Servant in the common Bakehouse in *Hastie's Clofe* in *Edinburgh*, aged 21 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, the Time and Place libelled, the Deponent, being at the Head of the Turnpike at the back of the *Muswell*, did from thence see Captain *Porteous* Pannel, who was then upon the North-west corner of the Gibbet, waving his Firelock too and again, and thereafter saw the said Firelock, while in his Hand, go off, and saw the Fire and Smoke go out at the Muzzle of it, and that this was the first Shot which the Deponent heard that Day; but heard several Shots thereafter; and that the Shot which the Pannel fired, was soon after the deceased *Andrew Wilson* was cut down. *Causa scientiæ patet*. And this is the Truth, as he should answer to God.

Witness XVII. James Naysmith, Servant to *Colin Alison*, Wright in *Edinburgh*, aged 26 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and soon after the deceased *Andrew Wilson* was cut down from the Gibbet, the Deponent being upon the Causey of the North-East End of the Scaffold, beginning to take down the Scaffold, and did then hear the Pannel, who was towards the North-End of the Scaffold, say several times to the Soldiers under his Command, *Fire*,

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Fire, and be damn'd; and at the same time saw the Pannel advancing Westward, with his Piece presented in his Hand. And immediately after hearing the aforesaid Words, he heard several Shots go off; and when the aforesaid Words were spoken by the Pannel, he was passing by the Deponent Westward, about a Yard or two distant from him. *Causa scientiæ patet.* And this was Truth, as he should answer to God.

Witness XVIII. David Brown, Servant to *Colin Alison*, Wright in *Edinburgh*, aged 28 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and after the deceased *Andrew Wilson* was cut down from the Gibbet, the Deponent being standing at the East-End of the Scaffold, assisting to pull it down, and then saw the Pannel going along on the North-side of the Scaffold Westward, and heard him give Orders to the Soldiers under his Command, *to Fire*, but does not remember the particular Expression: and immediately upon the Orders being given, as aforesaid, he heard several Shots, and when the Deponent heard the Pannel give the aforesaid Orders, he was about the Distance of the Breadth of the Scaffold from him. *Causa scientiæ patet.* And this was Truth, as he should answer to God.

Witness XIX. Matthew Kidd, Servant to *Thomas Milln*, Deacon of the Measons in *Edinburgh*, aged 33 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and soon after the deceased *Andrew Wilson* was cut down from the Gibbet, the Deponent being standing upon the plain Stones near Captain *Tod's* Shop, he saw the Pannel going from the Well at the *Bow-foot* Westward, and saw him fire the Gun that was in his Hand, and thereafter give Orders to the Soldiers under his Command to fire; thereafter heard him call to the said Soldiers to level their Pieces, and saw the said Soldiers fire: And that the Shot fired by the Pannel, as aforesaid, was either the first or second Shot; which Shot he fired standing to the North-east of the Scaffold, half way betwixt that and the *Bow-foot* Well; and that when the Pannel ordered the Soldiers to level their Pieces, he was some Yards nearer the Foot of the *Bow*. *Causa scientiæ patet.* And this was Truth, as he should answer to God.

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Witness XX. James Maxwell, Servant to *Colin Alison*, Wright, in *Edinburgh*, aged 32 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, the Time and Place libelled, after *Wilson* was cut down, and put in his Coffin, there was some Stone thrown by the Mob amongst the Guard, upon which he heard the Pannel order the Soldiers to turn in, and immediately heard him give the Soldiers Orders to *Fire, and be damn'd*; and then saw him advance two or three Paces, and saw his Gun cock'd, and his Thumb upon the Dog-head, and saw him fire the Gun; and immediately, before he heard any other Shot, he saw a Boy fall, near the Copper-smith's Shop, to the North-West of the Place from which the Pannel fired his Gun; there were six or seven more Shots after the Orders were given, and then he saw three Men and a Woman fall, one of which had a Wound in his Forehead, and another on the side of his Head. That after the Soldiers fired, as aforesaid, he heard the Pannel say to one of the Soldiers, That if he did not fire, he would take his Piece from him. *Deponed*, That he, the Deponent, was then standing on the South-side of the Scaffold, helping to pull it down, when he heard and saw what is above deponed upon; and that the Pannel was upon the North-side of the Scaffold, about ten Yards from it, over-against the middle of the Scaffold; and *deponed*, That the Pannel's Shot at that time, was the first he heard then shot. *Deponed*, That he was present all the time, from *Wilson's* coming down to his Execution, 'till after he was cut down and carried away, during which time he heard no Shot fired, untill that fired by the Pannel. *Causa scientiæ patet.* And this was Truth, as he should answer to God.

Witness XXI. William Douglass, one of the Soldiers of the City Guard of *Edinburgh*, aged 47 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, the Time and Place libelled, as the Executioner was going up the Ladder to cut down *Wilson*, there were several Stones thrown at him, which obliged him to come down the Ladder; at the same time there were several Stones thrown amongst the Guard, before *Wilson* was cut down; at which time he heard the Pannel say to the Soldiers, *Be damn'd to you Bougars, fire*: after which he heard several Shots fired by the Men: but knows nothing of the

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the Pannel's having fired; and that these were the first Shots he heard fired that Day, to the best of his Knowledge. *Deponed*, That the Pannel, when he uttered the Words before-mentioned, was standing at the South-side of the Gallows. *Deponed*, That the first Shots were fired before *Wilson* was cut down, and likewise some of them thereafter. *Causa scientia patet*. And this was Truth, as he should answer to God; and declared he could not write.

Witness XXII. Archibald Yeats, Lister in the *Abbey of Holy-rood-house*, aged 48 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That the Time and Place libelled, a little after *Wilson* was cut down from the Gallows, he saw the Pannel fire his Piece among the Multitude, and immediately heard him say to his Men, *Level your Pieces, and fire, and be damn'd*; whereupon there was a great many Shots fired by them; and saw the Pannel take a Gun from one of the Men, which he, the Pannel, fired. *Deponed*, That he, the Deponent, was within six Yards of the Pannel when he fired, and spoke the Words before mentioned. *Deponed*, That, at the time when the Pannel took the Gun from the Soldier, he laid his own upon the Scaffold, and that there were some Persons, but very few, then standing upon the Scaffold. *Deponed*, That betwixt the time that the Pannel fired his own Piece, and his taking the Gun from the Soldier, as aforesaid, it might be about eight or nine Minutes. And *deponed*, That at the time he fired the second Gun, there were several other Guns fired at the same time. *Deponed*, That there was no Shot fired before the first fired by the Pannel, and that the second Shot, fired by the Pannel, was near the same Place where he fired the first, and that he had not moved above six or seven Yards betwixt the first Firing and the second; and that some of the Soldiers followed the Pannel in that space, and returned with him again to the Place where he fired first. *Causa scientia patet*. And this was Truth, as he should answer to God.

Witness XXIII. William Murray, Barrow-man, and Indweller in *Edinburgh*, aged 27 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, the Deponent being present at the Execution of

Andrew Wilson, he did observe two of the Soldiers under the Pannel's Command fire their Guns; but the Guns were fired up in the Air. Thereafter, he observed the Pannel fire his Gun amongst the Multitude; whereupon he observed a Boy drop down, and did hear the Pannel call out to the Soldiers, *Damn them for Bougars, why did they not fire even forward, and clean the Street?* At which time the Deponent was standing about the South-Pillar of the *Corn-Market*, about twenty Yards distance from the Pannel, as he apprehended. Farther *deponed*, That, after the said first firing, he observed the Pannel take a Gun out of a Soldier's Hand, and fire again, directing it towards a Man he was pursuing, which he did thirty or forty Yards; and, upon firing, he observed the Person, so pursued, fall down. And being interrogate, how long his present Dulness of hearing remained with him? *deponed*, He has been as dull of hearing these seven Years past. *Deponed*, That the two Shots, from the two Soldiers, were the first firing he heard upon that occasion. *Causa scientia patet*. And this was the Truth, as he should answer to God.

Witness XXIV. James Nicol, Watchmaker, in *Canon-gate*, aged 36 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was present, Time and Place libelled, at the Execution of *Andrew Wilson*, and then he did observe the Pannel fire his Gun, holding it out straight before him, amongst the Multitude there assembled; and, as he heard the Report of the Gun, so he observed the Smoke of the Powder coming from the Gun; and this Shot was the first he heard upon that occasion: and the Pannel, when he thus fired, was standing betwixt the Gibbet and one Mr *Cunningham's Shop*, on the North-side of the Street, near the North-east End of the Scaffold. *Causa scientia patet*. And this was Truth, as he should answer to God.

Witness XXV. William Jameson, Merchant in *Edinburgh*, aged 24 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was present, Time and Place libelled, at the Execution of *Andrew Wilson*; and, about the time when they were cutting down the Criminal, the Deponent, then standing within three or four Yards of the Pannel, did hear him give Orders to the Soldiers,

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Soldiers, that were behind him, to fire; and immediately thereafter, he did hear the Pannel fire the Gun that was in his own Hand; and, upon his firing, observed the Smoke of the Powder come from it; thereafter he observed the Pannel take a Gun from one of the Soldiers, but what use he made thereof, he knows not; and it was very short time betwixt the Pannel's firing, and his taking the Gun from the Soldier; as also a very short Distance betwixt the Place where he fired, and where he took the said Gun; the Place of his firing, to the Deponent's Memory, being near to *Robertson's* Clofs-Head; and where he took the Gun, was a very little way up the Street from it; and the Shot he heard from the Pannel's Gun, was the first he heard that Day. *Causa scientia patet.* And this was Truth, as he should answer to God.

Witness XXVI. *John Moffat*, Baxter, and Servant in the common Bake-house in *Hastie's* Clofs, *Edinburgh*, aged 26 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, at the Time and Place libelled, the Deponent was standing in *Mr Orr's* Door, on the South-side of the *Grass-Market*; and, some short time after *Wilson* was cut down, he saw the Pannel take a Gun out of one of the Soldier's Hands, before *Mr Tod's* Shop-Door, which he immediately fired off towards the North-west; a little before which the Deponent saw him fire his own Gun from the same Place; that, upon the Captain's firing, the Deponent saw some of the Soldiers, who stood behind the *Corn-Market*, fire their Guns up in the Air. *Causa scientia patet.* And this was Truth, as he should answer to God.

Witness XXVII. *John Steuart*, Merchant in *Edinburgh*, aged 30 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogated, *deponed*, That, at the Time and Place libelled, the Deponent was standing in a Window of *Wine Garden's* House, on the South-side of the Scaffold; that, some short time before *Wilson* was cut down, upon some Stones being thrown at the Hangman, he observed the Pannel jump down from the South-side of the Scaffold, and walk up briskly towards the Place where the Disturbance was, but nothing in his Hand but a Cane. Immediately after this, *Wilson* was cut down; upon which the Guard, that at-

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tended the Execution, began to march up the *Bow*; and that, at the North-west Corner of the Gallows, he observed the Pannel take a Gun out of a Soldier's Hand, with which he pushed back the Multitude; and that, when the Pannel came the length of the *Bow-foot*, being upon the Rear of his Men, he saw him receive a Stroke with a Stone; upon which he suddenly turned about, and waved his Piece too and again towards the Multitude, but without firing; but a very little after that, he turned about, all at once, and stepped some Steps forward, and fired off his Piece towards the Croud Westward; that this was the first Shot which the Deponent either heard or saw made that Day. *Causa scientia patet.* And this was Truth, as he should answer to God.

Witness XXVIII. *John Gib*, Cow-feeder, in *Canon-gate*, aged 44 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, he was standing at *Mr Robertson's* Clofs-head in the *Grass-Market*; that, a very little after the Hangman had been on the Ladder, as he thought, to cut down *Wilson*, he observed the Pannel, with his Gun in his Hand, advance towards the Croud where the Disturbance was, and present his Piece three times; the last of which times, the Deponent thought, he fired her off; for he saw the Priming burning in the Pan, but could not see the fiery Smoke at the Muzzle, because of the Croud, neither could he with certainty distinguish the Report, because several other Pieces were fired off at the same time; that upon these Pieces being so fired, he saw one *Mr Neil* drop down at the *Muse-well*; that, before the Firing above-mentioned, he neither heard nor saw a Shot made that Day. *Causa scientia patet.* And this was Truth, as he should answer to God.

Follows the Depositions of the Witnesses adduced for the Pannel.

Wit. I. *George Smeiton*, Writer, in *Edinburgh*, aged 30 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, he was present at the Execution of *Wilson*; that when the Executioner was doing his Duty, he saw Captain *Porteous* come off the Scaffold, because the Mob was crouding upon the Guard; and

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and while the Pannel was endeavouring to keep off the Mob, he saw a Man with a silk Napkin about his Neck, press upon the Pannel, and seem to endeavour to grasp at him, but that a young Gentleman there in green Cloaths kept him off; and then the Pannel returned to the Scaffold. But about the time the Criminal was cutting down, or to be cut down, the Pannel went off the Scaffold again, and about that time there was Stones thrown by the Mob at the Hangman and the Guard, and some of them fell amongst the Guard: That so far as the Deponent could observe, being upon a Bartazine upon the South-side of the Scaffold, five Stories high, the Stones seemed to be pretty large, but the Deponent cannot tell the Dimensions; and then he soon observed a Shot, which was the first that he observed, and came from one of the Soldiers; and this Shot was after the Criminal was cut down: and after this Shot followed, in a very little, three or four other Shots; and at at this time the Pannel had his Piece presented towards the Multitude, and that he saw the Flash of the Pan of the Soldier's Gun that fired the first Shot. *Deponed*, That the Pannel was pretty near the Soldier that fired the first Gun. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. II. Thomas Harton, Doctor in the Regiment of *Welsh* Fuzileers in the *Canonsgate*, aged 39 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, he was present at the Execution of *Wilson*, when he saw several Stones thrown by the Mob at the Guard, of such bigness that was sufficient to have killed them, in case they had hit them in a proper Place, which continued some little time. *Deponed*, That while the Criminal was hanging upon the Gallows, the Deponent saw a Man press towards the Pannel, and being come near him, he held up his Hand to him in a threatening manner, but the Deponent did not hear what Words he uttered. *Deponed*, That when the Pannel was upon the Scaffold, he had no Gun in his Hand, but when he came off again, he took a Gun from a Soldier. *Deponed*, That when the Pannel came off the Scaffold, he went about to the West-side, and turned about towards the North, endeavouring to get his Men together, which he could not well do, they being so much interspersed with the Mob; and they con-

tinuing still to throw the Stones, the Pannel turned about with his Face toward the West, and having his Fuzee in such a manner in his Hand as if he had not designed to fire, but waving it from side to side, rather seeming to intimidate them; and at this time there was a Soldier came up upon his Right-hand, and fired close by the Pannel, and this was the first Shot that the Deponent observed. And *deponed*, That he had his Eyes strictly upon the Pannel all this time. *Deponed*, That he did not see the Pannel fire; and he is very well assured that he did not fire at that time. *Deponed*, That this Shot was immediately after the Criminal was cut down. *Deponed*, That after this the Pannel endeavoured to carry off his Men. *Deponed*, That the Soldier that came up by the Pannel's Right side, came up from behind him. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. III. David Rannie, Merchant in *Edinburgh*, aged 40 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That after the first Firings were over, the Deponent, from his own Window in the Land above *Bailie Dewar's*, at the Foot of the *Bow*, saw the Pannel drawing off his Men, and marching up the *Bow*, halt at *Bailie Crockett's* Shop, at which time the Deponent heard some Soldiers fire, which the Deponent apprehended was in the Rear, the Deponent looking upwards, and they that fired not being under his Eye. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. IV. John Clark, Serjeant in the Regiment of *Welsh* Fuzileers, aged 33 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That the Time libelled, the Deponent was sent by the Captain who commanded the Detachment of the King's Forces in the *Lawn-Market*, to the Place of Execution, to get Orders from the Magistrates or the Pannel; and having gone up to the Scaffold, and while the Deponent was conversing with the Pannel, he saw a Stone thrown at the Executioner, which cut him in the Nose, so that he bled; and about the same time, there was a Stone about the bigness of the Deponent's two Fists, hit the Calf of the Deponent's Leg, upon which the Deponent, with the Pannel, came down from the Scaffold; and thereafter saw the Pannel moving his Fuzee, in

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in order to keep off the Croud, who had by that time pressed upon the Guard, and drove them about four or five Yards from the Place where they were posted at first; and thereafter the Deponent saw Captain *Porteous* endeavouring to keep off the Mob with his Fuzee, waving it too and again, telling them, *to keep off, or he would fire*; but that there was no Fire at that time. And the Deponent then walking towards the *West-bow*, saw four or five of the Soldiers presenting their Pieces, and saw one of them advance to the Right, where the Deponent was standing, and fire upon the Croud, which was the first Shot the Deponent heard; at which time the Deponent saw the Pannel upon his left Hand, about seven Yards from him; and then the Deponent saw two others of the Soldiers come up betwixt the Pannel and the Deponent, and fire in the Air; and thereafter heard four or five more Shots, which the Deponent thinks was fired betwixt the Place where the Deponent was standing, and the Pannel; and the Deponent, during that time, had his Eye fixed upon those who fired, and did not observe that Captain *Porteous* fired, or gave Orders to fire; and upon the first Shot, as aforesaid, the Deponent observed a Man drop at the Entry of *Robertson's* Clofs. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. V. Colin Campbell of Ardonnick, aged 44 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That at the Time and Place libelled, the Deponent, in a Window from Mrs *Carmichael's*, opposite to the Scaffold observed no Disturbance, 'till once the Executioner was going up the Ladder to cut down the deceased *Wilson*, and then saw some Stones thrown at the Executioner, upon which he retired. And as he was passing the *Corn-Market*, the Deponent observed one of the Stones hit him, and saw some Stones thrown at the Guard, who were upon the North-side of the Scaffold, and saw the Pannel making Motions with his Fuzee, to keep off the Mob, and afterwards turned towards the Foot of the *Bow* very civilly; and then saw a Stone hit one of the Soldiers, and which Soldier the Deponent saw present his Firelock; and saw another Stone hit the same Soldier, and thereupon the said Soldier pointed his Firelock Westward, and fired immediately, and another Soldier fired immediately after him;

which Firing took the Deponent's Eyes from off the Pannel; and which two Firings, the Deponent thinks, were the first that were fired, and were fired by the said two Soldiers, who had advanced among the Croud from their Party. *Causa scientia patet*. And this was the Truth, as he should answer to God.

Wit. VI. William Meanie, Serjeant in the City-Gard of *Edinburgh*, aged 48 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and about the time the deceased *Andrew Wilson* was cut down, there were Showers of Stones thrown at the Guard; and particularly, one big Stone lighted betwixt the Deponent and Serjeant *Finlay*, above three Pound weight, and that the Drummer was cut in the Head with a Stone, and the Drum broke with a Stone; and that *Alexander Muschet* Centinel, one of the Guard, had his Shoulder-blade broke with a Stone; and that, before these Strokes were given, the Deponent, by Order of the Pannel, was drawing off and forming his Men in the Foot of the *Bow*. That the Pannel gave the Deponent his Fuzee, (which was the Fuzee the Pannel ordinarily carried) to keep while he attended the Execution and the Prayers, which the Deponent returned to the Pannel again, upon the Sign's being given to cut down *Wilson*, and before the Pannel came down from the Scaffold. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. VII. Alexander Campbell, Apprentice to *George Young*, Surgeon, in *Edinburgh*, aged 18 Years, or thereby, unmarried, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, at the Time and Place libelled, he saw several Stones thrown among the Guard, after *Wilson* was cut down, and saw two of the Soldiers of the Guard step aside from among the rest, and fire; and these were the two first Shots that he heard. *Causa scientia patet*. And this was the Truth, as he should answer to God.

Wit. VIII. Matthew Howert, Soldier in the City-Guard of *Edinburgh*, aged 40 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was present at *Wilson's* Execution, at the Time libelled; and that, before and after *Wilson* was cut down, there

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were a great many Stones, both great and small, thrown among the Guard by the Mob; that, after the Pannel came down from the Scaffold, he saw him wave the Piece he had in his Hand, but did not offer to present it; then he saw a Soldier step out from the rest, and fire his Piece in the Air; as likewise, two or three Soldiers, that fired thereafter, did likewise fire their Pieces in the Air; and that these who fired first, were standing close by the Pannel and the Deponent, and these were the first Shots he heard that Day. And he heard the Soldiers say one to another, *Fire, or we shall all be knocked down*; and, upon more Stones being thrown among them, several of them did fire; but, before that time, he heard the Pannel say to the Soldiers twice, *don't fire*. After these Shots were fired, the Captain marched up towards the Bow, and the Men followed him; that, at the time that the Shots were fired, as aforesaid, the Pannel was standing at the Foot of the Steps of the Scaffold, with his Face towards the Castle; and *deponed*, he was one of those that followed the Captain, nor did he see the Captain fire, as he was going up the Bow; that when the Captain was marching, on the Head of the Men, up the Bow, he heard a dropping Shot or two fired from the Rear, nor did he see the Captain return again towards the Scaffold, but marched straight on up to the Town. *Causa scientia patet*. And this was Truth, as he should answer to God; and declared he could not write.

Wit. IX. David Martin, Soldier in the City-Guard of *Edinburgh*, aged 40 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he, the Deponent, was one of the Party of the City-Guard, who attended the Execution of *Andrew Wilson*; and, before there was any firing, he did hear the Pannel call to them *Not to fire*; and before that, the Deponent had his Shoulder-blade disjointed, with a Stroke he received upon it with a Stone. *Causa scientia patet*. And this was Truth, as he should answer to God; and declared he could not write.

Wit. X. William Byres, Soldier in the City-Guard of *Edinburgh*, aged 51 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was one of the City-Guard, who attended the Execution of *Andrew Wilson*, and

that he did not hear Captain *Porteous* give any Orders to fire; but when the firing happened, he was at some distance from the Pannel. After the firing of several Shots, the Pannel called unto the Soldiers to fall into their Ranks, and follow him, which accordingly the Deponent and the rest did, falling in gradually, as they were able, and followed him to the Guard-house, till they were dismissed; and, in their March up the Bow, did hear one Shot that came from the Rear, but by whom he knows not. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. XI. James Armour, Writer to the Signet, aged 50 Years, and upwards, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That he was looking over a Window to see the Execution of *Andrew Wilson*: After the Criminal was thrown over, and cut down, he observed the Croud of People throwing Stones of considerable Bigness, but against whom they were directed, he knew not; but they fell among the Soldiers, upon which he heard two or three Shots, but from whose Hands he did not observe. Thereupon there was an Intermission for two or three Minutes; but thereafter, when the Pannel, with his Party, were retiring, which they did in great Confusion and Disorder, the Croud pursued after them, renewed the throwing of great Stones, and in great Number; upon which some of the Soldiers turned about, and marched back some eight or ten Paces, still in Disorder, and then heard a good Number of more Shots fired, which, to his Grief, he saw did great Execution. *Causa scientia patet*. And this was Truth, as he should answer to God.

Wit. XII. John Robertson, Stabler in the Grass-Market of *Edinburgh*, aged 30 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, at the Time libelled, as he stood in his own Window in the Grass-Market, he saw the Pannel, with his Piece in his Hand, moving it too and again, keeping off the Mob; and heard him say, *Fire, or I will fire*; does not know which of the two; that immediately, after this, he saw a single Man step out three or four Paces before Captain *Porteous*, and fire his Piece: And the Deponent verily believes, that the People, who fell near his Clofs, got their Wounds by that Shot, because they

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they were lying in that Place towards which the Man seemed to point. *Deponed*, That he heard some Firing towards the Foot of the Bow, before the last mentioned Shot. *Causa scientiæ patet*. And this was the Truth, as he should answer to God.

Wit. XIII. George Vint, Coal-grieve to Sir William Baird, of Newbyth, aged 46 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, at the Time libelled, he was in John Robertson's Window in the Grass-Market, when he observed the Pannel moving his Piece too and again, as if keeping off the Mob; and at the same time, he saw one of the Soldiers, a black-haired Man, step forward before the Pannel, and fire his Piece; upon which the Pannel turned about to him, and pushed him into his Rank. *Deponed*, That he did not see the Pannel fire at that time, or any other, and that the above-mentioned Shot was the first he heard or saw that Day. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Wit. XIV. Alexander Thompson, Town-Officer in Edinburgh, aged 40 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, being upon the Scaffold on the 14th of April last, when Wilson was executed, the Pannel sent him to the Magistrates, who were in William Orr's Houfe, to know of them, how long the Criminal should yet hang upon the Gallows? That he returned to the Pannel with the Magistrates Directions, which was, that he should still hang a Quarter of an Hour; but, before the half of that time was expired, Wilson was cut down. *Causa scientiæ patet*. And this was Truth, as he should answer to God.

Wit. XV. Peter Colston Merchant in Edinburgh, aged 25 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, Time and Place libelled, and after the first Firing, the Deponent being standing under the North-west Corner of the Corn-Market, saw the Pannel march the Guard, under his Command, up the West-Bow, and saw several of the Rear of that Guard fire upon the People assembled at the Execution; and, at the same time, observed, that the Pannel was within the first Turn of the West-Bow, and so out of the Deponent's View.

Causa scientiæ patet. And this was Truth, as he should answer to God.

Wit. XVI. John Kennedy, Surgeon in Edinburgh, aged 50 Years, or thereby, married, solemnly sworn, purged of Malice, partial Counsel, examined and interrogate, *deponed*, That, some short time after the Execution of Andrew Wilson, in April last, the Deponent attended the Persons of the Town-guard after mentioned, viz. Alexander Muscbet Soldier, the Spine of whose Shoulder-bone was crushed, and Alexander Braid Soldier, who had a Contusion in his right Foot; both which Persons informed the Deponent, That they received these Hurts at the Execution of the said Andrew Wilson; and that the last mentioned Person is lame to this Day. *Causa scientiæ patet*. The Deponent was employed to wait upon the said Persons. And this was the Truth, as he should answer to God.

Verdict returned by the foresaid Jury, 20th July 1736.

The above Affize, having inclosed, did chuse Sir John Inglis of Cramond, to be their Chancellor, and James Davidson, Bookseller in Edinburgh, to be their Clerk. And having considered the Indictment, at the Instance of Duncan Forbes, of Culloiden, Esq; his Majesty's Advocate, for his Highness's Interest, against John Porteous, late one of the Captain-Lieutenants of the City Guard of Edinburgh, Pannel, with the Lord Justice-Clerk, and Lords Commissioners of the Justiciary, their Interlocutor thereupon, and the Dispositions of the Witnesses adduced for proving thereof, the Pannel's own judicial Confession, and Disposition of the Witnesses adduced for the said John Porteous Pannel, his Exculpation; they all, in one Voice, find it proven, That the said John Porteous Pannel, fired a Gun among the People assembled at the Place of Execution, and Time libelled. As also, That he gave Orders to the Soldiers, under his Command, to fire; and, upon his and their so firing, the Persons, mentioned in the Indictment, were killed and wounded. And find it proven, That the Pannel, and his Guard, were attacked and beat by several Stones, of a considerable Bigness, thrown amongst them by the Multitude, whereby several of the Soldiers were bruised and wounded. In witness whereof, our said Chancellor and Clerk, in our Name, have subscribed

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*subscribed their Presents, Day and Place
foresaid. Signed,*

John Inglis, Chancellor.

James Davidson, Clerk.

Sentence pronounced by the Lords, upon
the Jury's returning their above Ver-
dict, 20th July 1736.

*The Lord Justice-Clerk, and the Lords
Commissioners of Justiciary, having con-
sidered the Verdict of Assize returned against
John Porteous Pannel, of this Date; they,
in respect thereof, by the Mouth of John
Dalgleish Dempster of Court, decerned and
adjudged the said John Porteous to be taken
from the Toolbooth of Edinburgh, upon
Wednesday the eighth Day of September
next to come, to the Grass-Market of Edin-
burgh, the common Place of Execution of
the said Burgh, betwixt the Hours of two
and four of the Clock of the Afternoon of
the said Day, and there to be hanged by
the Neck, upon a Gibbet, by the Hands of
the Executioner, until he be dead; and or-
dained all his moveable Goods and Gear to
be escheat, and in-brought to his Majesty's
Use; which was pronounced for Doom.*

N. B. After the Depositions against and
for Captain Porteous, the Council for him
urged, in the Presence of the Court and
Jury, That two of the City Magistrates
of the City of Edinburgh, and a Gentle-
man, one of the Council against him,
which three Persons were present in
Court, might be examined, to give some
Satisfaction to the Court and Jury of the
Condition his Piece, or Firelock, was in
immediately upon his Return from the Ex-
ecution of *Wilson*, and before he had en-
tered any House: And the said three Persons
being so examined, did all severally declare,
in Presence of the Court and Jury, That,
upon his Return from the Execution a-
foresaid, he did directly come up to the
Magistrates of the City, assembled at
their Council-house, and desired, that
his Piece, or Firelock, might be inspect-
ed; and that the same having been ac-
cordingly inspected by the said Magistrates,
assembled as aforesaid, it was found load-
ed, and in such Condition of Cleanness,
that it was apparent, it could not have
been in that Condition of Cleanness, had
it been fired, unless it had been there-
after cleaned. But these Declarations
don't enter the Record.

*For the further satisfaction of the Rea-
der, we will insert the following Informa-
tions against and for Captain John Por-
teous, with his Petition to Her late Ma-
jesty, and the manner of his Death.*

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July 12th 1736.

*Information for His Majesty's Advocate,
for His Highness's Interest; against John
Porteous, late Captain-Lieutenant of the
City-Guard of Edinburgh, Pannel.*

The Pannel is charged by the Indict-
ment, with *murdering, slaughtering,
maiming and wounding* divers of His Ma-
jesty's Subjects, by firing with his own
Hand, and causing and ordering a Band of
armed Men under his Command, to fire
upon a Multitude of *innocent People*, as-
sembled to see an Execution in the *Grass-
Market* of the City of *Edinburgh*, with-
out any just Cause or Provocation; con-
trary not only to the Laws of God and
Nature, and to the good and laudable
Laws of this and all other well-governed
Realms, but also contrary to the express
Duty of his Office, who was one of the
Commanders of the City-Guard; intended
to preserve the Peace of the City, and to
protect the Inhabitants thereof from all
Violence, and who was, on that occasion
entrusted with the Command of a large
Detachment of the said Guard, to preserve
Peace and Order, to secure the Execu-
tion of a Sentence of the High Court of
Justiciary, and to prevent all Riots and
Tumults, whereby the Execution of the
said Sentence might be disappointed, the
Laws might be violated, and the People
assembled might be hurt or destroyed.

The Indictment sets forth particularly,
That the Time and Place libelled, where
a great Multitude of innocent Persons of
all Ages, and of different Sexes, were
lawfully assembled, to see the Execution
of *Andrew Wilson*, sentenced to be hang-
ed by the High Court aforesaid, the Pannel
having under his Command a Detachment
of seventy armed Men of the City-Guard;
and having conceived a most *wicked and
malicious Purpose of destroying, maiming
and wounding Numbers of his Majesty's
Subjects*, the Inhabitants of the said City,
and others assembled at the said Execu-
tion, *without any just Cause or necessary Oc-
casion*, ordered the said Detachment under
his Command to *fire* upon the People so
assembled: That the Men under his Com-
mand, having probably, in his Apprehen-
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tion, fired over the Heads of the People, he, with Threats and Imprecations, repeated his Commands to fire, calling out to them *to level their Pieces and be damn'd*: That, at or about the same time, he *levelled the Firelock* that was in his own Hand, *taking aim* at one *Charles Husband*, and fired at him; whereupon he immediately dropt to the ground, having received Wounds whereof he instantly died; at least, that he *levelled his Piece*, seeming to *take aim* at some one in the Croud, and fired it; and that upon his firing, the said *Charles Husband*, or *one or other* of the Persons in the Indictment mentioned, dropt, having received Wounds by Bullets, of which they instantly died; and that, by his Commands and Example, several of the City-Guard under his Command, fired upon the innocent Multitude, whereby the Persons particularly mentioned in the Indictment, were killed, maimed, and wounded.

The Indictment farther charges, That not contented with this *Barbarity*, the Pannel, after he had marched off his Detachment towards, or unto the Place or Street called the *West-Bow*, again ordered the Men under his Command, *to face about and fire upon the People*; and, at or about the same time, fired a *Musket* or *Firelock* that was in his own Hand, having either reloaded, or caused to be reloaded, the Piece formerly fired by him, or having taken another, out of the Hand of one of the Guard; and that several of the said Guard did, upon that second Example and Command, fire upon the Multitude, whereby the Persons described in the Indictment were killed or mortally wounded. And the Indictment concludes in common Form, that the Pannel is guilty, or *Actor* *Art and Part* of the Crimes aforesaid, or *one or other* of them.

The Charge in this Indictment is so Henious, that, one should have imagined, it would have been decent in the Pannel to have made no Objection to the *Relevancy*, and to have founded upon no Defence for avoiding the Effect of the Libel, *if true*, but to have contented himself with a flat *Denial* thereof, reposing himself upon his Innocence, if he is truly not guilty of the Fact alledged, without any other Desire, but that of having a fair Examination of unbiassed Witnesses, to be produced by him as well as the Prosecutor, in order to discover the real Circumstances of the Transaction.

But his Procurators, it seems, thought

it their Duty to move every Objection against the *Relevancy* of the Libel, and to offer every *Defence* that their Invention could suggest, from a particular Relation of the Circumstances of the whole Transaction, which they laid before the Court upon the Pannel's Information, and which they offered to prove, to make good their Defence.

They informed the Court therefore, on behalf of the Pannel, ' That the Magistrates apprehending, that some violent Attempt might be made for rescuing *Wilson*, the Offender sentenced to be hanged, had ordered the Pannel to attend the Execution, with the greatest Part of the City-Guard, to support and protect the Executioner in the Discharge of his Office, with Directions to *repell Force by Force*; that, to make those Directions effectual, *Powder and Ball* were, by the *Town's Treasurer*, delivered out of the *Town's Magazine*, to the City-Guard, the Morning of the Execution, with Directions to load their Pieces; that, besides this Precaution, the Danger of the Rescue appeared to the Magistrates so great, that they defired of General *Moyle*, and obtained a Detachment of the regular Troops, who were posted near to the Place of Execution, in order to support the City-Guard, if there had been occasion; and whose Commanders were told, that the Lord *Provost* would give them *Authority* to fire, if it should prove necessary. That the Pannel, with the Town-Guard, attended accordingly the Execution; that when the Offender was hung up on the Gibbet, the Magistrates retired from the Scaffold, and repaired to a House over-against it in the *Grass-Market*; that after the Offender had been hung up for some time, the Multitude became unruly, and begun to sling *Stones of great Size*, and with great *Violence*; that some of the Guard were thereby hurt, one had his Shoulder-blade broke, others were bruised, and the Timber of the Drum was beat to pieces; that the Insolence of the *Mob* growing still greater, and they pressing from all sides upon the Guard, the Pannel, who apprehended they might have intended to carry off the Criminal, who by this time was cut down, in order to attempt the recovering him to Life, found it necessary for him to keep off the Multitude by *Threats* and *Menaces*; that to this end he presented his Piece, first to

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one Quarter and then to another, calling to the People to stand off, and threatening that if they did not, he would fire; that nevertheless he neither fired himself, nor gave any Orders to fire, but on the contrary, when some of the Guard, provoked by the Hurts they received, had, without his Orders or Authority, presumed to fire, whose Example were followed by several others, he did all he could to prevent that Mischief, by commanding them to desist, and actually did beat down the Muzzle of one of the Mens Pieces, who was presenting it in order to fire: That finding he could not be obeyed, he endeavoured to march off his Men, and prevailed with several of them to follow him some small way up the West-bow, when again some of those Men who followed him, provoked by what he did not know, faced about, and fired towards the Grass-Market: That the first notice he had of this Firing was by hearing it, which made him turn about in order to stop it; that at this last Place he neither fired, nor gave Orders to fire; that he marched as many of his Men as he could gather together back to the City Guard-Room; that there he prevented the Mens cleaning their Pieces, that the Guilty who fired might be distinguished from the Innocent who did not fire; that his own Piece had not at that time been at all fired; that conscious of his Innocence, and that he had on this, as well as on every former Occasion, done his Duty with Patience and Temper, he presented himself before the Magistrates; whereas nothing was easier for him than to have made his Escape; and that in their Presence the Firelock which he had in his Hand was presented, and appeared not to have been at all fired; and that therefore it was impossible the Libel, as libelled, could be true.

From this, which was said to be the State of the Case, the Procurators for the Pannel contended, first, That the Libel was insufficient, as not describing with proper Accuracy, the particular Part of the Street, where the Person supposed to be shot by the Pannel stood, and his Situation with respect to the Pannel at the time, because thereby the Pannel was deprived of the Opportunity of making his Defence, by founding it particularly on Circumstances, which he might avail himself of, if the Position and Situation had been distinctly described.

To this it was and is answered, That the Libel is as particular as the Law requires, describing the Street where the Execution was had, which is all that the utmost Scrupulosity could expect in such a Case. Minute Circumstances cannot be known to the Prosecutor, or certainly discovered, but by Proof upon the Trial. Every Circumstance of the Pannels's behaviour must be known to him, and therefore, if from the Position or Situation in which he was at the time of the Firing, he can shew that it was impossible he could have killed the Person whom he is charged to have shot, describing and proving those Circumstances, he may have Advantage from them, but cannot object to the Prosecutor, that he did not minutely describe a Situation that was not known to him, and which describing perhaps erroneously, might minister an unjust Occasion to a Criminal to escape Justice. Wherefore this Objection to the Form of the Indictment, ought to be repelled.

But in the second place, the Procurators for the Pannel very unnecessarily, one should think, if he is innocent of firing, or ordering to fire, and in some degree inconsistently with that Plea, alledged, That the delivering out Powder and Ball to the City-Guard, the ordering for great a Detachment to attend, the calling for the regular Troops to support the Town-Guard, the Intimation to the Commander of those Troops, that they should have Orders to fire in case of Necessity, and the Direction to the Pannel to support the Execution of the Sentence against Wilson, and in case of a violent Rescue or Deforcement, to repel Force by Force, amounted to a flat Order from the Magistrates, to fire when it became necessary: And that the violent Assault made by the Mob, as aforesaid, with Stones, which were to be considered as lethal Weapons, in order, as the Pannel believed, to carry off the Offender, in hopes of recovering him to Life, made it necessary to repel Force by Force. Wherefore these Circumstances to infer the Order, and the violent Assault of the Mob, as mentioned, ought to be sustained and admitted to Proof, as a total Defence against the Indictment, at least as Circumstances fit to mitigate the Punishment, and restrain it from the *Pœna ordinaria*; since the Pannel being versans in licito, and engaged in the Discharge of a lawful piece of Duty, if any Excess was committed by him, it ought, not

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'not to be attended with capital Punishment, but ought to be corrected *extra ordinem*, according to the degree of the *Excess*.'

To this it was answered, That though it were true, which is not at all upon the part of the Prosecutor denied, that the Magistrates, upon just Apprehension of Disorders, and an Attempt for a violent Rescue of the Criminal who was sentenced to die, had ordered Powder and Ball to be distributed to the Guard, had increased their Numbers, had obtained Assistance from the Commander of the regular Troops, with Assurance, that in case of Necessity, they should be authorized to fire, had directed the Pannel at all hazards to support the Execution, and prevent a violent Rescue, and had even told him, that in case of Necessity he was to *repel Force by Force*; it will not in the least follow, that those Orders could in any degree justify him, *except* in case of Necessity; *except* there had been an Attempt towards a violent Rescue, which could not otherwise have been prevented; and *except* all the proper Precautions for dissipating otherwise the Mob, and for legitimating the Act of Firing upon them, had been previously made use of.

For in the *first* place, no Order from any Civil Magistrate whatever, can justify a *Barbarity* so horrid, as that which is charged on the Pannel. Had the Provost, and all the Magistrates of Edinburgh, been present on the Spot, and had they ordered him to fire upon the innocent People, when there was no just Cause for so doing, those Orders indeed might subject the Magistrates, as well to the penal Consequences that attend Murder, but could not in the least acquit him, who was not at all bound to obey such illegal Orders, and who therefore acted at his Peril.

In the *second* place, It is not at all pretended, that the Pannel had any Orders expressed or implied to fire, except the Violence of an Attempt to rescue, not otherwise avoidable, made it necessary. Had that been truly the case, Firing possibly might have been the Pannel's Duty, the reading the Proclamation undoubtedly would have made it justifiable; and this the Magistrates knew, when they ordered Ammunition to be distributed, and invited the regular Troops to their Assistance. But till it became necessary, when there was no Hazard of a Rescue, before any Disorder was sought to be quelled, by the legal Precaution of reading the

Proclamation, which is intended to intimidate Rioters, and to separate the Innocent from the Guilty, by giving due Notice to all thoughtless People, who without any Malevolence are mixed with the Multitude, to separate from the Ill-meaning; it was the most cruel, as well as unjustifiable Act, that has at any time been heard of, to make use of the Weapons that were put in the Hands of the Guard, for the Security of the Peace and of the People, to destroy so many Innocents, who had not in any degree offended.

For *thirdly*, Though the Pannel mentioned the flinging of Stones, and the Size of some of them, with some Hurts received therefrom, yet the Libel charges, and he admits, that the Criminal was cut down before this trifling Provocation prevailed with any one to fire: His Duty then, so far as concerned the Execution of the Sentence, was over. He alleges no Danger, nor can he in those Circumstances, of a Rescue, no Invasion with Fire-Arms, or other mortal Weapons, fit to deforce or destroy a Detachment of Seventy disciplined Men, with loaded Pieces and scoured Bayonets. How then can the Exigence or the Orders defend him? If his Act had been absolutely necessary, some Defence might have been founded on that Necessity joined with his Orders: But when his Allegations, though they were true, do not point out the least Necessity, and are in reality founded on nothing else than the customary Impertinence on such Occasions, of flinging Dirt and Stones at the Executioner; though the Provocation thereby given, might perhaps justify a choleric Man, for drubbing any of the Actors for their Wantonness, yet to be sure it could not justify the Slaughtering of the Offender, far less can such Impertinence, in a few Boys, or other idle People, excuse the firing sharp Shot upon an innocent Multitude, whereby Numbers of his Majesty's Subjects were destroyed. And therefore it seems to be beyond all doubt, the Pannel can find no Shelter from those Orders, or the Duty he imagines lay upon him to fire; and must therefore stand or fall, upon his being, or not being guilty of the Facts charged upon him.

The Procurators for the Pannel endeavoured to find an Argument for him, in a late Resolution of the Court, which suspended a Sentence of the Court of Admiralty, proceeding upon an Interlocutor, that found it necessary for Soldiers,

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Soldiers, who happened to kill in the Execution of their Duty, when, by Order, attending Custom-House Officers, to prove, that the Killing was *necessary for the Defence of their Lives*, inferring from this Resolution, that the Court did not think it necessary for the Pannel to prove, that he was in *Danger of his Life*: And though all that their Observation necessarily implies were granted, they could have no Benefit by it, because, in *this Case*, the Pannel neither *does*, nor can *aver*, that the *Firing*, which he was *personal* guilty of, and *ordered*, was *necessary* for securing the Execution of that *Trust* that was committed to him, or for preserving the Rights of the Crown, or any Subject.

Where a Man has by Law Weapons put in his Hand, to be employed, not only in Defence of his Life, when attacked, but in Support of the Execution of *the Laws*, and in Defence of the *Property of the Crown*, or *Liberty of any Subject*, he doubtless may use those Weapons, *not only* when his own Life is put so far in danger, that he cannot probably escape without making use of them, *but also* when there is *imminent Danger*, that he may by Violence be disabled to execute his *Trust*, without resorting to the Use of those Weapons: But when the *Life of the Officer* is exposed to *no Danger*, when his *Duty* does not *necessarily* call upon him, for the Execution of his *Trust*, or for the Preservation of the *Property of the Crown*, or the Preservation of the *Property or Liberty of the Subject*, to make use of mortal Weapons, which may destroy his Majesty's Subjects, especially *Numbers* of them who may be *innocent*, it is impossible, from the Resolution of the Court of Justiciary hinted at, to expect any Countenance to, or Shelter for, the *inhumane Act*.

And upon a Principle very near allied to this, the Pannel's Pretence, that being *versans in licito*, and intrusted with the Execution of *legal Orders*, any *Excess* that for *lack of Discretion* he may have been guilty of, cannot be punished *pœna ordinaria*, ought to be *repelled*; for 'tis obvious, the *Trust* reposed in him, and the *Duty* expected from him, was no more than to see the Execution perfected, and to resist any *violent Attempt to rescue*, which should disappoint the *Execution of the Law*. Now, when the Sentence of the Court of Justiciary was executed, when the Criminal was *banged and cut down*,

before any Person fired, the *Trust* reposed in the Pannel, and the *Duty* expected from him ceased: He was no longer an Officer employed to that end for which the Fire-arms were loaded, and his Actions came to be estimated of by the same Rules that would have made them *lawful or unlawful* upon every *ordinary Occasion*, where no *particular Danger* threatened, and where no *necessary Service* was in View.

And therefore, as in such Cases, the Pannel must be convinced, that nothing short of being *constituted in immediate Danger of Death* without firing, could justify him or his Guard, for making use of *loaded Fire-Arms*, he must in consequence acknowledge, that in the Case in question, no *Danger of Life* which he could not have *avoided*, having threatened him and his Guard, he was absolutely *inexcusable* for firing, and that therefore his *mischievous and temerarious Act* must be attended with the *bighest Penalty*.

An *armed Man* who assaults, and without just Cause destroys another Man *tho' armed*, and in no *particular Trust* or Confidence with him, the Law considers and demeans as a *Murderer*; but when the *Captain of a City-Guard*, who has an armed Force committed to his Care, for the *Good and Safety of the Community*, thinks fit, upon any *slight Offence or Provocation*, to turn *those Arms and that Force* upon a Croud of *Citizens lawfully*, as well as *innocently* assembled, he is, in addition to the *Slaughter and Destruction* that ensues, *guilty of the most notorious Breach of Trust*, and for an *Example* to others, whom it may be necessary for the *Good of the Community* to trust, ought to be punished in the most severe Manner. Men so *trusted* are under *double Tyes*, for besides the general Obligations of *Duty and Humanity*, a *particular Confidence* is reposed in them, which, at the *Peril of their Lives*, they ought to answer.

The Procurators for the Pannel complained, That in the *Indictment* he was charged with a wicked and malicious Purpose of destroying, wounding and maiming Numbers of his Majesty's Subjects; and by the Pannel's sober and modest Deportment on former Occasions, and the whole Circumstances precedent to the melancholly Accident now in question, endeavoured to show, that he had no premeditated malicious Design. But this again was to no purpose: The Prosecutor never heard, nor, so far as he knows,

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did ever any Man before this Time, complain of the Wickedness or Inhumanity of the Pannel, and he has received no Information, by which he can be induced to think, that for any considerable Time before the Fact complained of, the Pannel had premeditated the destructive Action of which he is accused. But then his Procurators very well know, that Firing and ordering to fire imply, and are Proof of a wicked and malicious Purpose of destroying those that are fired at; *malitia* and *propositum præcedunt ictum* in the Construction of Reason, as well as Law; and whoever willfully murders and destroys his Majesty's Subjects, must be deemed as a Murderer, if his malicious Purpose preceded the drawing of the Tricker, or giving the Orders, one Moment, as much as if it had been pre-conceived a whole Year.

These Shews of Defence, rather than Defences, being removed; the next Thing that comes to be considered, is the History of the Pannel's Behaviour during the melancholy Transaction, which his Procurators offered to prove, and insisted, would, if proved, be a sufficient Defence against the Facts charged in the Libel.

But in this the Prosecutor can by no means agree; for he takes it to be extremely plain, that every single Circumstance alleged by the Pannel may be true; and yet it may also be true, that he with his own Hand fired and killed one or more of the innocent People, and that he ordered the Men under his Command to fire.

It may, for example, possibly be true, that he, at some Period or another of the Action, called out to the Multitude to stand off, or that he would fire; that he at some one Point or another of Time, prohibited the Men to fire, and struck down the Pieces of such as were presenting them; and yet it may also be true, that he at some other Point of Time, gave the precise Word of Command to fire, and actually fired the Piece that was in his Hand. Before he lost his Temper, he might have threatened only: Before he took the Resolution of annoying, as well as after he saw Mischiefs done, he might have endeavoured to prevent a particular Act of Inhumanity; but his doing so at certain Periods, is no conclusive Evidence, that at other Points of Time, his Conduct might not have been very different.

Were his giving Orders, or actual

firing dubious, the Circumstances mentioned for the Pannel, might create a strong Presumption for him: But if it shall be proved, as it is charged in the Libel, that he actually fired the Piece in his Hand oftener than once, and gave positive Orders to fire; What can it avail him, that at some other Periods of the Fray he behaved himself in a different Manner? since both the one Allegation and the other may be true.

But the Procurators for the Pannel insisted, 'That though the Proposition they undertook to prove, was in some degree a Negative, yet it was so circumstantiated as to be capable of a positive Proof; for they said, that credible Witnesses could be produced, who would inform the Court and Jury, that during the whole Fray, they kept their Eyes upon the Pannel, and were attentive to his Actions; and that they could take upon them to say, that throughout the Scuffle he did not fire his Piece, nor order the Guard to fire, but that he threatened to fire, which might by Persons at a distance, who heard the word fire only pronounced, be mistaken for a Command, and that he presented his Piece only in a menacing Posture, but without firing, which might have misled the Spectators into an Opinion, that he did fire, though he really did not, if any one who was near him happened to discharge his Shot about the same Time.'

This Reasoning however, is manifestly defective, because the Evidence of the Witnesses, who shall say they did not see or hear, bears no proportion in point of weight, to the Testimony of those who shall, upon Oath, positively say that they did hear or see.

And besides the obvious Reason for maintaining this Distinction in the common Case, there is a particular Consideration that supports it; in the Case of a Fray or Tumult, where Shots are fired, Murder ensues, and there is a general Confusion and Surprise. No one could possibly be so interested in keeping his Eyes upon the Pannel, when it could not be foreseen there would be occasion to give Evidence touching his Behaviour, as not to be liable to be carried off from that Object, upon any fresh Surprise that happened in the Tumult: the firing of a Shot, the flinging of a Stone, the extraordinary Behaviour of any one of the Multitude, or of the Guard, might imperceptibly

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perceptibly have drawn the Eyes and Attention of any Spectator, from the Pannel to that new Object, and prevented his seeing or hearing what he did in the mean time. And therefore no Witness, or Number of Witnesses, who should take upon him or them to say absolutely, that the Pannel did not at any Period of the Fray fire, or order to fire, would at all be credible, at least most certainly they could not be credited against such Witnesses as should positively say, that they saw or heard him fire, or order to fire.

If Witnesses shall say against the Pannel, that they saw him present his Piece, and fire; and for their *Causa scientie* shall aver, that they observed Fire and Smoke issuing out of the Muzzle of his Piece, and a Man drop down dead in the Place towards which he pointed it, will that Evidence be sufficiently contradicted, by Persons who may say they observed no such thing, or that others of the Guard fired about the same Time, and in the same Place? 'Tis humbly thought it cannot; because this is setting up negative Evidence only against positive, which neither Law nor Reason permits.

And if credible Witnesses shall aver, that the Captain distinctly ordered the Guard to fire, can it avail him, that other Witnesses heard him threaten the Croud, that if they did not retire he would fire, without hearing the positive Orders for firing given? In a Tumult, every Individual cannot possibly hear every thing that passes; but then it is no Evidence that particular Words were not uttered in a Fray, that some Persons present at the Fray did not hear or attend to them.

And the Pannel, in framing his Defence on this Article, does not seem to have attended to what is expressly libelled against him, That in great Anger he said to the Men under his Command, upon their firing over the Heads of the Multitude, *level your Pieces, and be damn'd*. Will this Circumstance, should it be proved, be at all consistent with that Part of the Defence, which tends to render the Expression *Fire* dubious? If the Pannel's Passion moved him to utter the Expression, *level your Pieces, and be damn'd*! Is it at all doubtfull in what Sense the Word *Fire* was pronounced? These things are, 'tis thought, too plain to be further insisted on.

The only remaining Circumstance, on which the Procurators for the Pannel

seemed to lay stress, was the Condition of his Firelock, when the Action was over, and his voluntary presenting himself before the Magistrates, when he could have made his Escape; from which they would have inferred, an Impossibility that he was guilty of actual firing, his Firelock appearing not to have been discharged, and a strong Improbability, that he was conscious of having given any criminal Orders, since without necessity he freely presented himself to Justice.

Now as to these Matters, it must be observed, First, That the Condition in which the Pannel's Firelock appeared, can yield no Evidence for him: A Piece that has been fired may be re-loaded, and so cleaned and brushed up, as to leave no Vestige or Mark of the former firing; and the Piece which the Pannel made use of in firing, might have been changed, and another produced to the Magistrates in the room thereof.

But, 2dly, The Indictment no where avers, that the Pannel made use of his own Piece when he fired. Where he is first charged with firing, no more is said, than that he levelled the Firelock that was in his Hand, and fired it at *Charles Husband*. Now the Firelock that was in his Hand, might have been that belonging to another Man, as well as his own: And in the other part of the Indictment, where he is charged with firing, it is said that he made use of a Musquet or Firelock that was in his Hand, having either re-loaded, or caused to be reloaded his own Piece, or having taken another out of the Hand of one of the Guard: So that the Libel in every Article of it may be true, and proved; and yet it may be also true, that the Pannel did not fire his own Piece.

And as to the Article, That the Pannel, conscious of no Guilt, appeared voluntarily before the Magistrates, when he could easily have made his Escape: It can possibly infer no Presumption for his Innocence, if the Facts charged in the Indictment are made good. Whoever shall be satisfied by the Proof, that the Pannel acted in manner libelled, must be convinced, that he was governed in his Actions by no Principle of Discretion, and must therefore lay no weight upon an Act of his, which can yield no Inference, unless he is supposed to have been governed by Discretion and Prudence.

Having thus run over the several Circumstances

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circumstances of the Pannel's Narrative, the Profecutor apprehends, he may safely conclude, that they cannot jointly or separately be sustained as a Defence against the Charge laid in the Indictment: Because, tho' every Circumstance alledged were undeniably proved, the unhappy Pannel might nevertheless be guilty; and a positive Proof of the Facts charged must necessarily prevail with every unbiased Jury-man, to join in a Verdict against him.

The Profecutor is nevertheless far from wishing, that the unfortunate Pannel should be deprived of an Opportunity of laying every Circumstance that may make for his Defence before the Jury by Proof, tho' he humbly insists they cannot be sustained as a Defence relevant to *assailzie from the Indictment*. It is possible the Fact may come out otherwise in the Trial, when Witnesses are upon Oath, than it did when the Examination was taken in the *Precognition*; and should the Proof of the Indictment be in material Circumstances defective, the Evidence offered for the Pannel may have it's Weight; wherefore, so far as the Forms of the Court will allow, the Profecutor makes no Opposition to the indulging the Pannel to bring what legal Evidence he can, for the Information of the Jury.

It is far from being the Interest of the Crown, or of the Publick, that an innocent Man should suffer; but it is greatly the Interest of both, that a fair and strict Enquiry be made, where the Guilt lies, when a Massacre so cruel, and so dangerous happens; to the end, that if the Officer, who has Power put in his Hand for the Preservation of the Peace, and for the Protection of the People, should, from any unjust Motive whatever, make use of that Power in Breach of the Laws, to the Destruction of the People, he may be made an Example to restrain others in the same Circumstances, from the like monstrous and dangerous Abuses in Time coming.

In Respect whereof, &c. Subscribed,

DUNCAN FORBES.

July 13, 1736.

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Information for John Porteous, late Captain-Lieutenant of the City-Guard of Edinburgh, against his Majesty's Advocate.

The Pannel stands indicted, at the Instance of His Majesty's Advocate, for His Highness's Interest, for the Crimes of Murder and Slaughter, Maiming and Wounding; and the Facts charged against him, from hence these Crimes are pretended to be inferred, are these following.

That the Pannel, being one of the Captain-Lieutenants of the said City-Guard, was, by the Magistrates of the City, ordered to attend, with a Detachment of about 70 Men of the said Guard, at the Execution of *Andrew Wilson*, sentenced to be hanged by the High Court of Justiciary; and that the said *Andrew Wilson*, having hung upon the Gallows, erected for his Execution, in the Street called the *Grass-Market*, until he was dead, at least for a considerable Time, and so long that there was ground to conclude he was dead, he, the said Pannel, conceiving a wicked and malicious Purpose of Destroying, Wounding and Maiming the Persons, Inhabitants of the said City, and others assembled at the said Execution, did, without any just Cause or necessary Occasion, order the said Detachment, under his Cammand, to fire upon the People so assembled; and that some of the Men having fired, as it would seem the Pannel apprehended, over the Heads of the Multitude, with Intention to avoid doing them Harm, he, the said Pannel, did, with Threats, repeat his Commands to fire; calling out to the Men, *To level their Pieces and be damn'd*, or Words to that Purpose; and that, at the same Time, he levelled the Firelock that was in his own Hand, taking Aim at one *Charles Husband*, and having fired the said Firelock, the said *Charles Husband* immediately drop'd to the Ground, having received a Wound or Wounds, by Bullets or large Drops of Lead, whereof he died in a short Space; and that, by the Pannel his said Example and Command several of the said Guard, to the Number of about 20, did, at the same Time, or soon thereafter, fire upon the innocent Multitude, by which Fire two other Persons were killed, and several others wounded,

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wounded, maimed or hurt; and that the said Pannel having thereafter marched off the said Detachment of the Guard, into that Part of the Street aforesaid, called the *West-Bow*, he did again, without any just Cause or Occasion, order the Men, under his Command, to face about and fire upon the People: And that, at this Time, the said Pannel did fire a Musket that was in his own Hand, having either reloaded, or caused to be reloaded, his own Piece or Firelock, or taken another out of the Hands of one of the Guard, and that several of the said Guard did upon that second Example and Command of the Pannel's, fire upon the Multitude, by which Fire three other Persons were killed; at least, that, by the said Firings of the Pannel, or of the Firings of the other Men in the said Detachment of the Guard, proceeding from the Pannel's Order and Example, the several Persons, mentioned in the Indictment to have been killed, maimed or wounded, were all respectively killed, wounded or maimed: Whereby the Pannel is guilty of the Killing, Wounding or Maiming the said Persons; at least, is Art and Part thereof, or accessory thereto. From whence the Indictment concludes, That the Pannel ought to be punished with the Pains of Law; *i. e.* Capitally.

To this Indictment the Pannel pleaded *Not Guilty*; for that he had at no Time, during the Execution of *Andrew Wilson* aforesaid, given any Order, or shewed any Example to the said Detachment of the Guard then under, or that ought to have been under, his Command, to fire upon the Multitude so assembled; and that he did, at no Time, fire any Piece or Firelock himself upon the Croud. That tho' it might be true, that at, or about the Time of the said Execution, several Persons were killed and wounded by the Firings of that Detachment of the Guard, which indeed ought to have been under the Pannel's Command, and which he does, with great Grief and Sorrow, regret; yet that, as such Firing proceeded wholly from the Men in the said Detachment, without any Order or Example from the Pannel, so he could not be charged therewith, however fatal or tragical the Consequences of such Firing may have proved.

That though the Pannel, as conscious of his own Innocence, could safely rest his Trial upon the Denial of the Facts aforesaid, and upon such Proof as he could bring, by the Evidence of Multitudes of

Persons of undoubted Credit, who happened to be present, close by him, during this unhappy Scene, that he was no ways instrumental to the killing or wounding the said Persons; but that, upon the contrary, he did all that was in his Power to prevent and restrain the said Firing upon the Multitude: Yet, that he was advised by his Council, that they could not during the Conducting of his Trial, consistent with their Duty, suffer him, the Pannel, to omit or abandon any Defence that was competent to him in Law; and that therefore, as by the Law of *Scotland* the Pleading to an Indictment upon supposed Facts, is no legal Admission of such Facts, the Pannel was at Liberty to plead any other Exception that lay against the Form of his Indictment, or even to plead, That though such Firing had proceeded from his Order or Example, yet even in that case, such Firing, and the Consequences where-with it was attended, was not sufficient to support the Charge against the Pannel, of the Crimes of either Murder, Slaughter, Maiming, or Wounding, or to render him obnoxious to the Pains libelled.

And in the Entry of the Debate, the Procurators for the Pannel ask Liberty to offer to the Court a full Recital of the Behaviour of the Pannel, during the Execution of the said *Andrew Wilson*, and for some short Space previous and subsequent thereto; and also, to offer a short Relation of what they apprehend was the Cause that the Execution of the said *Andrew Wilson* was attended with such an unusual Confluence of People, and was ordered to be guarded and over-seen by such a numerous and unaccustomed armed Force.

The said *Andrew Wilson*, along with one *Robertson* and others, had been sentenced to Death by your Lordships, for robbing one of the Collectors of his Majesty's Revenue of considerable Sums of Money of the Publick; and while they lay under this Sentence, they were allowed, as usual, to go to the Church adjoining to the Prison, for the Benefit of Divine Service, under the Custody of a small Detachment of the City-Guard. And while the Convicts were thus at Church, *Robertson*, one of them, found Means to escape from his Keepers of the Guard, by suddenly jumping over a Pew, and getting out of the Door of the Church; his Retreat apparently being favoured by the Mob, or lowest Sort of the People, he easily made his Escape, without having been ever since over-taken.

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From this Escape of *Robertson's*, so favoured by the Mob, and from strong Surmises and Suggestions, that, at the Execution of *Wilson*, a Rescue was intended by the Mob, which indeed there was a reasonable Ground to apprehend; because the Commons have imbibed a pernicious and absurd Conceit, as if the Robbing of the publick Money was a Crime more pardonable than private Robbery: Therefore it was, as the Pannel apprehends, that the Magistrates of the City, from a Sense of their Duty to prevent the Execution of the Law's being any further defeated by the Rescue of *Wilson*, took the strongest Precautions that the Execution of him should be made effectual.

In Consequence whereof, as would seem, the Provost of the City sent for the Pannel, in whom, he must take the Liberty to say, Confidence was generally put upon those difficult Occassions, and told him, That there being great Apprehensions of a Mob at *Andrew Wilson's* Execution, that therefore there was a Necessity to be well prepared to prevent their Designs; and, for that End, that he would have the whole City-Guard to attend at the Execution, he having given Orders to the Town-Treasurer to furnish the Men with Powder and Shot, and such other military Ammunition, as might be necessary for the Use of the Men in maintaining the Peace of the Town, and supporting the Execution of the Laws. And this Conference with the Provost happened upon the *Monday* preceeding the Execution of *Wilson*, which followed on the *Wednesday* thereafter. But it seems the Magistrates of the City, not thinking even this Precaution sufficient, upon the *Tuesday* thereafter the Provost sent the Pannel with a Letter to General *Moyle*, residing near the City, and chief Commander of the Forces in *Scotland*, telling the Pannel, that the Import of this Letter was, desiring from the General an Order for a Party of the Regiment lying in the *Canongate* to enter the City, (a Thing very uncommon, except in the Case of urgent Necessity) in order to over-awe the Mob, and thereby maintain the Peace during the said Execution.

It seems this Letter to the General induced him to send a verbal Message in return thereto, by a Person of known Honour and Veracity, Major *Pool*, of that Regiment now lying in the *Canongate*, who told the Provost, that the General wanted to know of him what Part the King's Troops were to act, and what Precautions

had been taken for preventing any Insult or Invasion that might be made upon the Troops, or what Length these Troops might go in the Case of Tumult or Disturbance. To which the Provost made Answer, That there was no Reason to apprehend any Inconveniency would happen to the King's Troops, because he would have them only to parade, for a Terror to the Mob, in a Street called the *Lawnmarket*, removed from the Sight of the Execution, but at a small Distance only; where nevertheless they would be ready at a Call in case of Necessity. But that he had ordered the whole Band of the City-Guard to attend at the Execution itself, with proper Arms and Ammunition, namely Slug-shot, with Orders to repel Force by Force, and even to discharge their Arms among the Mob, in case of Resistance.

On *Wednesday*, the Day of the Execution, in the Forenoon, the Pannel attended the Provost, and told him, that, in Obedience to his Commands, the Men were all ordered to be in Readiness, their Arms put in order, and loaded, whereof the Provost approved, and told the Pannel, that he was to be ready betwixt two and three in the Afternoon, with his Guard, and to draw out until the Party of the King's Troops, from the *Canongate*, past him; and that so soon as the King's Troops were drawn up in the *Lawn-Market*, the Pannel, with the City-Guard, should forthwith march to the Prison, and conduct the Prisoner to the Place of Execution, without allowing him first to go to the Town's Council-House, as usual; still with Intention, as would seem, to prevent any Opportunity of Rescue, or Disturbance upon that head. And at this Time in the Forenoon, the Pannel humbly proposed to the Magistrates of the City, that they would send a Proclamation through the Town, as a Caution to such innocent unwary People, as might, by Curiosity, be drawn to the Sight of the Execution, warning them of their Danger, in case any Disturbance should happen; or Attack be made upon the Guard. And accordingly *George Lindsay*, one of their Clerks, made a Scroll of the said Proclamation, to be sent through the Town; but for what Reason it was not proclaimed the Pannel knows not. And, at the same Time, the Pannel remembers, some one or other of the Common-Council of the City, proposed, in case of Disturbance, the Reading of the Riot-Act, and, for that

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purpose, sent for a Dozen of Copies of the Act to a Bookseller's Shop, in order to distribute them amongst the proper Officers of the Law, authorised to read and proclaim such Act: But it seems, at no Time, either of those Proposals were put in Execution; nor, at the Time of the said Execution, did any Officer of the Law, authorized to proclaim such Act, attend with the Pannel.

A short space before the Pannel march'd with his Men from the Guard-House, towards the Place of Execution, he was heard say, That he had no Cartridges in his Box; on which a Corporal told him, that he would get him some; and accordingly the Corporal did, in the presence of several of the Men, open the Pannel's Catridge-Box, wherein it was observed there were no Cartridges, and put three Cartridges therein, with one of which the Pannel loaded his Piece, and immediately marched away with the Men.

When the Criminal was conducted to the Scaffold erected for his Execution, the Detachment of the City-Guard were posted on the Street, in a Circle surrounding the Scaffold, in order to keep off the Mob; but, because of a certain Building, called the *Corn-Market*, nigh adjoining to the Scaffold, Part of the Men did also incircle that Building. (And here it may not be improper for the Court, to cast their Eye upon a Plan of the Ground, and the Posture of the Men, in order to have a clearer View of the Descriptions to be hereafter mentioned.)

So soon as the Criminal was thrown over the Ladder, and so left hanging upon the Gibbet, the City-Bailiffs immediately withdrew nigh to, directly opposite, and in View of the Scaffold, but without leaving any Order, or Officer of the Law, to attend with the Pannel: And it had happened, that some short space before the Act of Execution, while the Minister was assisting the Criminal by Prayer, the Pannel had gone up to join, leaving his Piece with the Serjeant; and so soon as publick Prayer was ended, or some short Time after, and the Convict left to his own private Devotion, the Pannel took back his Piece in his Hand, and afterwards came off the Scaffold, and posted himself at the West End of the Detachment of the Guard.

So soon as the Convict had been hung up, as aforesaid, and that the City-Bailiffs had withdrawn from the Scaffold, the Mob became to be troublesome; intending,

as would seem, to use this last Shift, immediately to cut down the Criminal, and endeavour to bring him to Life by Bleeding; an Expedient, which, when timeously applied, has, on many other Occasions, been known to be attended with Success: And the Mob fell a murmuring, that they would have him instantly cut down; and if it were not quickly done, they would do it themselves. And at this Time they press'd hard upon the Guard, striking at them with Sticks, seizing of their Fire-Arms and Bayonets, and throwing exceeding big Stones at the Guard; one whereof cut a Drummer to the Skull; another broke one of the Mens Shoulder-Bones; another wounded one of the Mens Legs; and several others of the Men were wounded, whereby they are yet unable to do Duty. The Truth of all which can be attested by their common Surgeon, who is by the City ordered to attend them upon all Exigencies.

This Insolence in the Mob alarm'd the Pannel; and still observing it to increase, he was apprehensive that the Mob might obstruct the perfecting of the Execution; for no Criminal can be cut down from the Gibbet, but upon the Order of a City-Bailiff, upon a Judgment that the Criminal has hung up until he is compleatly dead, agreeable to the Sentence, which always commands such Convict to be hang'd until he be dead: Therefore it was, that the Pannel sent a Message to the Bailiffs, to know if he should suffer the Criminal to be cut down from the Gibbet; who brought back an Answer, that the Convict was to hang there yet for a Quarter of an Hour.

At this Time the Mob wax'd exceeding bold, became very turbulent, and prest hard upon the Guard; and while the Pannel was endeavouring to keep off the Croud from pressing among the Soldiers at one End of the Scaffold, some of the Convict's Friends, assisted by the Mob, catch'd an Opportunity, and cut him down without any Order. And tho' the Convict, being thus cut down, was in the Possession and Keeping of the Mob, who were endeavouring to recover him to Life, by causing the Veins of both Arms to be opened; whether it was that they were apprehensive that the Guard would recover him out of their Hands, as having been cut down without Order, or that the Officers of the Law were designed to see to his Interment, and that he was executed to Death; or that the Convict's Body

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dy was intended to be given to be anatomized by the Surgeons, as is sometimes practised, where Persons of low Degree, or notorious Offenders, are sentenced to Death, or from whatever Motive it proceeded, the Mob began to insult and attack the Guard: And upon this Attack it was, that the Man aforesaid had his Shoulder-blade broken; and another so bruised, that he has been never able to do Duty since; and the Timber of the Drum was broke, by the Force of an exceeding large Stone that was thrown; and several others of the Men were hurt and wounded.

This Violence in the Mob so alarmed the Pannel, that he made a Step or two forwards to the westward of the Scaffold, turning about his Face towards the *West-port*, from whence the Throwing of the Stones mostly proceeded; and having put his Piece to his Shoulder, he levelled it at the Mob, and pointing it around to them, threatening with an audible Voice, that if they would not be at Peace, and leave off throwing Stones, and attacking the Men, *he would fire among them*; but immediately recovered his Piece without firing it; the Threats being only intended to intimidate the Mob.

But unfortunately, upon this ensued the whole tragical Scene; for no sooner had the Pannel stepped forward, threatening to fire, as aforesaid, but one of the Men came up from behind him, and running by him upon his right Hand instantly discharged his Piece; upon which, one of the Croud dropt down, supposed to be *Charles Husband*, and which *Charles Husband* will upon Proof be found to have been the Person who tumultuously stepped in and cut down the Criminal.

Immediately upon this first Fire, another of the Guard came up to the Pannel, with his Piece presented and cock'd, and ask'd if he should fire; to which the Pannel answered with some Vehemence, *No, by no means*, and struck up his Piece, bidding him go to his Rank, and actually thrust him thereto.

After the Example of this first Fire, several more of the Men were heard to discharge their Pieces, but upon what Provocation the Pannel cannot tell, these Shots having been at a considerable Distance from the Pannel, proceeding, as is supposed, from such of the Men as were standing at the south-west Corner of the *Corn-market*; whereas, as has been noticed, the Pannel was still standing at his for-

mer Station, to the west of the Scaffold and Gibbet.

The Pannel not knowing the fatal Consequences of those Shots, but suspecting however that Mischief would happen, seeing the Men had been so rash as to fire without Orders, thought it was the best course he could take, to lead off the Men of the Guard as soon as he could; and for that end, he called to them aloud to follow him. And after having given Orders to the Serjeants to gather them together, for it was impossible to bring them into Ranks, by the Confusion of the Mob, he marched off as many of them as he could find, by the north side of the Scaffold, towards the Foot of the *West-bow*, and towards a Parcel of the Men whom one of the Serjeants had got together at the Foot of the *Bow*. But as he was going to join that Parcel of the Men, he heard a Piece fired near him, with which he was a good deal surprized, and yet more, when he observed two or three People fall to the Ground: And which Observation was the first thing that greatly alarmed the Pannel, as knowing from thence that certainly Mischief was done. But it is certain, that this fatal Shot did not proceed from the Pannel, but from a certain Man in the Guard, that can be well proven, who after having fired this Shot, immediately retired amongst the Croud, and then got himself joined to the Party. And surely the Magistrates of the City will remember, that when a Precognition was taking of the several Facts and Occurrences upon this tragical Day, that a certain Person told them, that if they would be pleased to set the whole Band of the Guard before them, he would point out the Man who made this last Fire; but the Magistrates overlooked this Offer.

As soon as the Pannel saw there was no restraining the Men from Irregularities, he marched off so many of them as he had got together, without taking time to form them into any Order; giving Orders, at the same Time, to the Serjeants to beat and press off the rest with all manner of Dispatch. Upon which, he observed those that had straggled, come off partly from about the Scaffold, and partly from the East-end of the *Corn-market*, and fall into the Rear; and while the Pannel was thus marching up the *Bow*, upon the Front of the foremost Part of the Men, and had come as far as the Turn of the *Bow*, he heard some dropping Shots firing in the Rear, at about thirty

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thirty or forty Paces distant from him; which, he supposes, may have proceeded from those Men, who were straggling upon the East-side of the Corn-market, nigh to the Head of the Cowgate, but upon what Occasion the Pannel knows not. But being alarmed with the Shots, he looked back, supposing the Men might be attacked by the Mob; and observing no Marks of any such Attack, he thought the most prudent Course he could take, was forthwith to march off the Men.

It falls here to be noticed, that all this Firing, from first to last, and whereby so much Mischief has been done, lasted not above two or three Minutes; and therefore, considering the Violence of the Mob, and the straggling Situation of the Men of the Guard, and supposing the Truth of the above Narrative, which will be attested in proper Time by the Oaths of many Gentlemen, of undoubted Veracity, and who had fair Opportunity of Observation at the Time, it is left with the Court, and to every impartial By-stander, whether the Pannel could well have done more for the Safety of the Burgh; considering that it shall also be proved, that, during these few Minutes of firing, accompany'd with great Hurry and Confusion, the Pannel gave several repeated Orders to the Men to restrain from firing; but, observing those Orders prove ineffectual, he endeavoured to sweep them off the Field with all manner of Precipitation.

The Pannel marched on with the Men to the Guard-house, and, as he thinks, with Coolness and Deliberation, passing by the King's Troops in the *Lawn-market*; a Thing generally esteemed somewhat inconsistent with Guilt, especially such horrible Guilt as he is charged with. Upon his Arrival at the Guard-house, he drew up his Men there, sending a Serjeant to the Provost for Orders; which were brought, that they should wait on their Arms till the King's Troops past; and some of the Men, in waiting, offering and attempting to clean their Guns, but the Pannel discharged it; and would not allow it to be done. Mean Time a certain Person of Credit came up to the Pannel, and asked, *If he had fired?* To whom he made Answer, *He had not.* But the Person not being satisfied with the Answer, put his Finger into the Muzzle of the Pannel's Piece, and, after having rubb'd it about, and after having also view'd the

Lock, said to the Pannel, *I see you have not fired, and I am glad of it.*

The King's Troops having passed the Guard, the Pannel filed off the Men into the Guard, and ordered the Serjeants to keep them close till further Orders; and by all means not to suffer them to clean their Pieces: And at the same Time the Pannel delivered his Carbine, loaded as aforesaid, at the Guard-door, to one of the Guard, neither entering the Guard himself, nor any other House, but went immediately to the Provost. Thus his own Piece was brought back loaded, and apparently without having been fired; and the other two Cartridges which he had got at the Guard, were found upon his Return in his Cartridge-box.

When the Pannel went up to the Provost, some Person there present alledged, he had seen the Pannel fire; which he contradicted, and begg'd the Provost to send for his Piece, which he told he had delivered at the Guard, as aforesaid; and that it would appear, from inspecting of her, that she had not been fired. And the Piece being accordingly sent for, and brought up to the Council-Chamber, and, after being strictly inspected, it was agreed by all present, that she had not been fired: And in this Condition she still lies, loaded, in the Custody of the Magistrates, along with the Cartridge-box, containing the two Cartridges, as aforesaid.

Tho' the Pannel has a pretty important Prize at Stake, yet he rests in full Security, that he will prove to the Conviction of the Court every Article above-recited, and a good deal more, in his Behalf, to be hereafter mentioned. And if it should here be made Matter of Wonder, how such different Accounts as are given of this Matter can consist together, seeing Numbers of People are impress'd with the Guilt of the Pannel; and that even good, well meaning People, who were present upon the Spot, persist in affirming, That the Pannel was guilty, by both firing himself, and giving repeated Orders to fire: The Pannel can give no other Account of this Matter than in this way. A miserable Slaughter was, some how or other, committed within the Town. The Guilt must be laid to some Body's Door; and whether any Art might be used to lay the heavy Load upon the Pannel, in order to draw the Attention of the Multitude from another Point in view, the Pannel shall not say; but intreats the Honourable Court,

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Court, and every candid Reader, who may happen to take up this Information, to look into the *Caledonian Mercuries*, of the 15th and 19th of *April* last, Papers supposed to be published by Authority, where will be found a most charitable Account of the Matter touching this misfortunate Pannel, who was then lying in close Confinement, without any body being allowed Access to him; and, of Consequence, could have no Opportunity of vindicating himself, until once the Prejudices were deep rooted and riveted, so as even to catch the unwary, tho' well-meaning, Part of the People. And these beautiful Relations of this Transaction are adorned with some witty Sarcasms, very proper to this melancholy Occasion, and painted out with ingenious Reflections, and quaint rhetorical Invectives, very suitable to the Authors of those historical Relations.

And indeed the Authors of those Accounts of the Matter, whoever they are, have the Impudence to affirm, and the Wickedness to endeavour to fix it upon the Pannel, as an Instance of Premeditation and Felony fore-thought, that the Pannel had ordered the Detachment of the Guard to load with Ball and Slug-shot, before they marched from the Guard: And this worthy Author affirms, That such Doing was unprecedented, and such as the Pannel could not pretend Orders for; notwithstanding that it is now, with his usual Candor, admitted by his Majesty's Advocate in his Information against the Pannel, and dare not be denied, but that the Pannel had Orders to see the whole Mens Pieces loaded with Bullet and other Shot, and even to fire those Pieces amongst the Mob in Case of Exigency.

The Prejudices against the Pannel being once artfully rooted, it was an easy matter to catch the giddy Mob, who are not able to look back and discern the true Springs and Causes of Things: For such is the Nature of human Passions, that, if they are once artfully moved, they will be apt to misguide the Understandings even of Persons of Observation; and thus the Speat having once been created against the Pannel, it grew into a Torrent, and flew like a Train of Fire, every one adding Fewel to the Flame, and Sparks originally increase into a mighty Combustion; and so, in like manner, Things entirely of themselves innocent, may be multiplied into horrid Cruelties and savage Barbarity.

It might also operate to the Prejudice

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of the Pannel, that this Scene was acted in a very short Space, attended with great Commotion and Confusion, Words and Actions might be misconstrued, whereof more particular Notice shall be taken hereafter, whereby Persons, even of Judgment, might be deceived, and thereby fall into the vulgar Notions. And here it cannot be deemed an useless Digression in the Pannel, to give a Caution to all Gentlemen who may happen to be called in Evidence upon this Trial, (for 'tis feared the Mob are not capable of this Advice) not to affirm Things upon Oath, except their Observations have been accompanied with all that Certainty which those Sensations wherewith Mankind is endued, can admit of; because any inconsiderate Rashness, to the Prejudice of the Life or Fame of the Pannel, cannot fail, for hereafter, to be attended with very painful Stings of Remorse.

It was observed for the Pannel, as a Thing that could not be denied, That upon many former Occasions, he had been singled out, as the fittest Person to maintain the Peace of the City, by quelling of Mobs and Tumults; and that he had never heretofore, during all the many Occasions on which he had been employed, ever discovered any imprudent Rashness or cruel Temper in the Exercise of his Command, but had exposed his Person to very great Danger, rather than involve the City in Blood, or proceed to such Extremities as the Law even would have entirely justified.

It was also observed in Behalf of the Pannel, That it was no new Thing for the private Men in the City-Guard, who, tho' they are tolerably acquainted with Discipline, yet are not subject to the military Law, to take upon them to fire upon the Multitude, without any Order from their Commander; whereof the following Instances are offered, and which cannot be denied; *to wit*,

That at the Settlement of Mr *Wotherspoon*, as a Minister in the *West-Church* Parish, a Party of the City-Guard, under the Pannel's Command, did, one or more of them, in the Rear-Ranks, within the West-Gate of *Edinburgh*, while the Pannel was marching on the Front, face about and fire upon the Mob, without any Order; and by which Fire several were dangerously wounded. And the like happened a few Years ago, after the Execution of one *Campbell*, when a Detachment of the City-Guard were conducting the

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the Corps of the Person executed, which was delivered over to the Surgeons of *Edinburgh*, by Order of the Magistrates. And the same Thing happened a few Years ago, at a Race at *Leith*, where the Party of the Guard was commanded by Captain *Lind*, whereby several Persons were wounded. And another Instance was given, where the same Irregularity happened, within these few Months, at the Execution of *Brown* the Smith, when the Detachment of the City Guard was commanded by both Captains, *Lind* and *Fergusson*. And indeed, innumerable other Instances might be given of the Rashness of the Men in this Particular, which it is needless to condescend upon, because they are notoriously known in the City.

It may also deserve Notice, That the private Men of the Guard might be prompted to fire without Orders, partly from Resentment, that *Robertson* before-mentioned had escaped out of their hands; and partly from being encouraged by the general Order they heard was given by the Magistrates to fire, in case of Resistance: For it is now found, That several of them were heard to say, before they went out to the Execution of *Wilson*, that now they had got Arms and Ammunition put in their Hands, and therefore would not fail to use them, in case they were attack'd, or any Resistance made.

These Observations, 'tis humbly thought, cannot fail to operate in Favour of the Pannel, in case the Proof of the Libel shall be attended with any Uncertainty or Dubiety. And altho' the Pannel is not so weak of Judgment, as to imagine that such Presumptions can prevail against positive and certain Proof; yet he doubts not, that in due Time, when the Proof is led, such Observations must have Weight with the candid Jury.

One Thing more we must observe in general, that as he has been employed, for these many Years past, as the Scourge of the Mob, tho' never once known to proceed to Extremities; yet such Station of his may be the Cause of drawing Resentment from the lower Sort of the People against him.

The Pannel has just Reason to ask the Forgiveness of the honourable Court, for dwelling so long upon Generals; but, 'tis hoped, from what is above noticed, and that this is the first Occasion he had of vindicating himself from the Aspersi-

ons and Prejudice of his Adversaries, he may merit the Pardon of the Court.

And now to proceed to the Particulars in the Indictment: And whereas it sets forth, That the Pannel, conceiving a most wicked and malicious Purpose of destroying, wounding, and maiming Numbers of his Majesty's Subjects, Inhabitants of the City of *Edinburgh*, had acted the several Matters and Things charged in the Indictment; the Pannel must observe, That the Circumstances of the Case naturally exclude any Supposition of premeditate Malice and Resentment in the Pannel; because 'tis impossible to conceive, that the Pannel should have retained any Malice against a Multitude of Persons, of whom he neither had, nor can be supposed to have had, any Acquaintance. And tho' it was admitted, That the Circumstances of the Case do exclude any supposed long premeditated Malice; yet it was urged, That, in Law, every wicked Action does presume Malice, tho' instantaneous to such Wickedness committed.

To which it was answered, in Behalf of the Pannel, That the Circumstances of the Case, as laid in the Indictment, do even exclude any Presumption of Malice, accompanying the Acts charged in the Indictment; because every Action must be construed in the most favourable Sense: And therefore, the Actions charged against the Pannel, must even be construed to have proceeded from a Principle of Duty in the Pannel, in maintaining the Peace of the Place, and in supporting the Authority of the Laws, and the guarding of that Execution of them which was committed to him by lawful Authority.

In the next Place, an Exception was taken to the Indictment, as not having been laid with sufficient Certainty, the Indictment no where expressing the particular Places of that large Street wherein the Guilt is charged to have been committed, whereby the Pannel was precluded from making his Defences with Certainty: For had it been laid in the Indictment at what Places in the Street the particular Persons, affirmed to have been killed and wounded, were so killed or wounded, the Pannel might have had an Opportunity of proving, from the Circumstances of his Situation at the several Periods, that it was impossible that such Wounds could have been received from his

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his Hands. And though it may be true, that such Part of the Indictment as charges the Pannel's Order to fire, would be of universal Influence, and reached over the whole Circumstances of Guilt charged in the Indictment, yet as actual Execution, made by the Pannel, was charged separate from his Order to fire, such Proof of Innocence, whereof the Pannel pleaded an Opportunity, might have afforded him a Defence against such Part of the Indictment as charges his own Firing and Killing.

To this it was answered by his Majesty's Advocate, That the Libel was as particular as the Law required, describing the Street where the Execution was committed; which is all that the utmost Scrupulosity could expect in this Case; because minute Circumstances cannot be known to the Prosecutor, or certainly discovered, but by Proof upon Trial, and that every Circumstance of the Pannel's own Acting must be known to him. And therefore, if from the Position or Situation in which he was at the Time of the firing, the Pannel can shew that it was impossible he could have killed the Person whom he is charged to have shot; by describing and proving these Circumstances, he may have Advantage from them, but cannot object to the Prosecutor, that he did not minutely describe his Situation, which was not known to him; and that, by the describing of which, perhaps erroneously, the Prosecutor might minister an unjust Occasion to a Criminal to escape Justice.

To which it was replied for the Pannel, That though it is true, that in most Cases the describing the Street where the Guilt was committed, would be a sufficient Description, yet that in the present Case, where it was laid in the Indictment, that in a Croud or Multitude, various Shots were fired by different Hands, and thereby Wounds given, 'tis even necessary to describe the particular Place of the Street where such Wounds were received, in order to form a Judgment from whose Hands those Wounds had proceeded. The Pannel might have fired elusory, or in the Air, and the Wounds received may have proceeded from the Shots of others. That though the Pannel knows his own Position and Situation, and can prove them, yet such Proof could not avail him, nor be received by the Court in point of Relevancy, because it would be a simple Negative, which could not be admitted of, nor would not apply, unless the particular

Places of the Street, in which the Wounds are said to have been received, had been described to him, a Situation which the Pannel cannot be supposed to know; whereas the Prosecutor must be supposed to have known it, seeing the same Information that led him to know of the Wounds received, must necessarily, upon Enquiry, have certiorated him at what Places of the Street such Wounds were received; seeing the Matters and Things laid in the Indictment, are charged to have been committed at high Day-light, in presence of Multitudes. And though the Pannel is fully satisfied of the good Disposition of the honourable Prosecutor, to lay a fair and certain Indictment against every Pannel; yet it must be admitted, that all Indictments ought to be laid with all that Accuracy and full Description, that the Nature of the Thing can admit of. And as to such part of the Answer for his Majesty's Advocate as saith, that such particular Description of Place, if perhaps erroneously described, might minister an unjust Occasion to the Pannel to escape Justice; 'tis answered, that such erroneous Description of Place, could in no sense affect the Trial; because, though such Description should not be proved it would not vary the Case, provided the Act of Killing were proved against the Pannel; because such Description of Place is but a Circumstance immaterial to be proven by the Prosecutor; but, for the Reasons above assigned, highly material for the Pannel to know, in order to lay his Defence before the Court.

It was in the next place offered, as a Defence for the Pannel, That the Resistance of the Mob was so great, and the Attack of the City-Guard so violent against them, in Beating, Bruising, and wounding the Men, as has been above noticed, while they were in the lawful Execution of that Office committed to them by lawful Authority, that such Resistance and Attack must have justified the Guard in repelling the Violence of the Mob, since such Proceedings in the Guard, were acted in support of the due Execution of the Laws, which the Mob were highly criminal in disturbing. That this Argument as pled for the Pannel, was not only consonant to the Rules of Reason, but agreeable to sundry Judgments and Precedents of the Court; particularly, that in the Year 1692, it appears from the Books of Adjournal, that James Gordon, Messenger, at the Execution of a Captain, did, with

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with many others his Assistants, armed with Guns, Swords, and other hostile Weapons, shot several Shots, whereby one *Alexander Jack* was killed dead upon the spot amidst a numerous Croud, which the Alarm of Noise and Tumult had drawn together, and whereof only part can be supposed to have come there with Intention to resist the Messenger; and the said *James Gordon*, and the others his Assistants, being indicted for Murder, the Lords sustained this Defence to him, relevant to elide the Libel simply, viz. *That he, in the Execution of a Caption, having his Blazon displayed, was, by force of Arms, hindred to enter the House of Loanmay, by the Persons within that House; and that they did threaten and menace the Messenger and his Assistants: and that they threatned to raise the Country; and that the Country did accordingly rise, and beset and surround the Messenger, either in the House, or without the House; the said Country People being armed with Guns, Swords, and other invasive Weapons.*

Here your Lordships perceive, that the Court justified the Messenger in shooting amongst the Mob, and killing; because the Persons in the House forcibly hindred him from entring, and threatned and menaced him, being armed with invasive Weapons. And the present Case is more favourable in behalf of the Pannel, who acted by lawful Authority, as well as *Gordon* in the other Case did, and who was supporting the Execution of the Laws, as well as *Gordon* was; with this Difference upon the Side of the Pannel, that he was not only hindred and menaced in the Execution of his Duty, but he and his Guard invaded and assaulted, beat, bruised and wounded, as has been above noticed, and whereof a strong Proof shall be brought; and that the Mob, in the present case, were not only armed with (but, in their Attack, upon the Guard, made use of) big Stones of two or three Pound Weight, which must be allowed to be very invasive Weapons; and therefore the Pannel subsumes, that the Defence offered for him in the present Case, is stronger, and ought rather to be allowed him than that which was sustained to *Gordon*. Only the Pannel must do the Justice to his Majesty's Advocate, as to acknowledge, that this Precedent was not hitherto offered in the Debate; but when the Record is inspected, will be

found to stand in the precise Terms as above mentioned.

There was, in the former Debate, a Precedent of the Court offered, as against the Pannel, which the Pannel, with Submission, apprehends makes for him; namely, *Captain Wallace's Case*, sometime after the Revolution. *Captain Wallace* was indicted, in the Year 1692, for having refused, in the Year 1688, to deliver up himself, in Obedience to an Order of the President of the Council; and several Privy-Counsellors, whereof two were Officers of State, and the Bailies of *Edinburgh*, having gone down to the *Canon-gate*, with a Herald and Pursuivant, with their Coats of Arms displayed, to put the Order of Privy-Council in Execution; notwithstanding which, *Captain Wallace* would not deliver himself up; but retired, with the Men under his Command, to the *Abbey*, and defended himself, and fired upon the Bailiff's Heralds and Pursuivants, shot several Persons dead upon the Spot, and wounded a great many others.

The Defence, pled for *Captain Wallace*, was, That the Keeping of the *Abbey* was committed to him by Order of the Privy-Council, which he was obliged to maintain so long as the Trust of it was committed to him: That, as to the Order of Privy-Council, to deliver up his Person, it was contrary to an Act of Parliament of *James VI.* whereby any general Warrant, for putting the Person of any Man in Ward, except where such Warrant was signed by four Officers of State, whereof the Chancellor, Treasurer or Secretary of State to be one, which had not been practised in *Wallace's Case*, was prohibited and discharged.

The Lords, after a very learned Debate, did sustain these Defences to *Captain Wallace*, viz. *That on the Sabbath Night, or shortly before, a Rabble did meet in several Places, in great Numbers, and that severals of them did declare to John Pater-son, their Resolution to trouble the Pannel on his Guard, and to pillage the Abbey, relevant to restrict to an arbitray Punishment.*

Here, your Lordships perceive, that the Court sustained a previous Intention only declared, that they would trouble the Pannel on his Guard, and pillage the *Abbey*, sufficient to moderate the Punishment; so tender are the Laws towards any Person committing Hostility in Defence of his Guard; and then the Lords sus-
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tained the following Defence relevant to elide the Libel altogether, to wit, *That the Rabble did, in a tumultuous Manner, come down the Canongate with Swords and Fire-Arms, and did beat some of the Pannel's Centinels; and, being desired to stand, they notwithstanding advanced so near, that the Pannel could speak with them; and, after he had desired them to remove, or be at their Hazard, they, notwithstanding thereof, still persisted to advance.*

The Application, in the present Case, is easy. The Pannel many Times exhorted the Mob to stand off, notwithstanding of which they still pressed upon him; he many Times advertised them of their Hazard, threatened to fire upon them if they would not keep off; his Centinels were not only beat, but bruised and wounded; all which is offered to be proved.

Another Case was mentioned in the Debate to your Lordships, which strongly supported the Plea of the Pannel; because it was a Judgment of your Lordships pronounced but very lately, after the most solemn Deliberation of the Court, and wherein, the Pannel is informed, the Court was unanimous; and which Judgment seemed to be of that Importance, as to induce the Court to reverse the Proceedings of the High Court of Admiralty, after a solemn Trial by Jury in that Court, a Verdict returned, finding the Libel proven, and the Defence not proven, and a Sentence of Death pronounced by the Judge of the High Court of Admiralty.

The Case before the Admiralty was this; a Corporal and a private Centinel in Colonel *Hamilton's* Regiment were indicted before the Admiral for Murder; for that they had, upon the High Seas, killed *Hugh Fraser* younger, of *Belmain*, by stabbing him with a Bayonet in the Breast, and afterwards throwing him into the Sea, whereof he instantly died.

The Defence pled for the Pannels was this, That the Pannels were, by military Order, appointed to attend the Officers of the Customs in Seizing of Goods, by Law made seizable, and that the Pannels being in a Boat upon the Seas, along with the Custom-House Officers, in Quest of such Goods, the Person killed did come up with them in another Boat, with others in Company with him, and that *Frazer* the deceased, jump'd into the Boat where the Pannels and the Custom-House Officers were, and endeavour'd to take hold of their Arms, which was both a

Resistance and an Attack of the Custom-House Officers while in the Execution of their Duty

Upon the other hand, it was pled against the Pannels, That *Frazer's* jumping into the Boat was with no Intention to make Resistance, but rather to save his own Life from the Thrusts of the Pannels, their Pieces having been aimed at him; that those in the Custom-House Boat could have no just Apprehension of being mastered by Mr *Frazer*, he having no invasive Weapon about him whatever, and being the only Person who offered to get into the Custom-House Boat, in which there were several Persons well armed.

The Judge of the High Court of Admiralty admitted of the Pannel's Plea in this Manner only, *Sustains the Defence of Self-Defence propon'd by the Pannels, that the Killing of the said Hugh Fraser, by them, or either of them, was in the necessary Defence of their Lives, and repelled the whole other Defences proponed for the Pannels.*

The Jury returned their Verdict, finding the Pannels both guilty Art and Part of Killing the said Mr *Frazer*; and finding it not proven, that the Killing of Mr *Frazer* was in the necessary Defence of the Pannels Lives; upon which Verdict returned, the Judge sentenced both the Pannels to be hanged.

The Proceedings of the Court of Admiralty were laid before your Lordships for a Review, which, 'tis believed, is the single Instance, wherein it was ever contended, that the Proceedings of the High Court of Admiralty, in Matters criminal, could be reviewed by any other Court.

Notwithstanding of which, your Lordships were pleased to reverse the Sentence of the Judge-Admiral, no doubt, upon supposed Error in his Proceedings; because the Verdict of a Jury, pronounced upon Evidence, cannot be reversed; and in Consequence of which Judgment of your Lordships, the Pannels were set at Liberty.

Now the Pannel is advised, that such Judgment, in your Lordships, could stand upon no Foundation, other than this, viz. That your Lordships had reversed the Judgment of the Admiral as erroneous, in not sustaining this Defence to the Pannels; That they were resisted by Mr *Frazer* deceased, while they, the Pannels, were in the Execution of their Duty.

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And as the Degree of Resistance offered by Mr *Frazer* to the Pannels, was, by the Pannels themselves, maintain'd to have been no higher than what has been set forth to your Lordships, the foresaid unanimous Judgment of your Lordships, pronounced after many solemn Deliberations, does, by Consequence, shew, that it was your Lordships unanimous Opinion, that a very small Degree of Resistance of Persons, in the Execution of their Duty, will justify the Persons resisted in the Act of Killing the Resister.

And if that was the solemn and unanimous Opinion of the Court in a Case so recent, must not such Judgment afford a strong Argument to the Pannel, that he and his Guard were resisted, while in the undoubted Execution of their Duty, in being beat, wounded, and bruised, by an unruly Mob, who, there was good Reason to apprehend, intended to defeat the Execution of the Criminal.

To this last Case, the Pannel met with no other Answer, from his Majesty's Advocate, but this: That the Pannel cannot plead the Benefit of this Case; because he neither does, nor can aver, that the Firing proceeding from him, or his Order, was necessary for securing of the Execution of that Trust that was committed to him. His Majesty's Advocate does admit, That where a Person has, by lawful Authority, Weapons put into his Hands, to be employed either in defence of his Life, when attack'd or in support of the Execution of the Laws, or of the Property of the Crown, or Property of the Subject, such Person may use those Weapons, not only when his own Life is so far in danger, that he cannot probably escape without making use of them, but also where there is eminent Danger, that he may, by Violence, be disabled to execute his Trust: But withal, seems to contend, That the Pannel was under none of those Circumstances at the time he committed the Guilt charged upon him in the Indictment; for that the Execution of the Criminal was over before the Scuffle began, or any Resistance was made to the Pannel, and the Guard under his Command: And that being the Case, the Pannel can plead no other Defence, than such as might arise from his being put under the imminent Danger of his Life.

But, with great Submission, these Positions of his Majesty's Advocate are assumed without any Authority; and, as would appear, not only in plain Opposition to

the Laws, but to the many Precedents already offered in behalf of the Pannel. For, 'tis hoped, it must be admitted, even by my Lord Advocate himself, and is indeed so admitted by him, that the Pannel was once in the lawful Execution of his Duty, and was obliged, at all hazards, to support the Execution of that Criminal who was committed to his Guard; surely then, the Execution of the Pannel's Duty can never be said to have been at an End, until once the Criminal was fully executed to Death, and as such, ordered to be cut down by lawful Authority. Unless it shall be said, that it was the Pannel's Duty, the moment the convict was hung up, to let him instantaneously be cut down, rescued by the Mob, and brought to Life again, which seems to have been their plain Intention; for it seems to be confessed upon all Hands, that there was danger of a Rescue, which seems to have been the occasion of all this extraordinary Apparatus; and for preventing of which, 'tis admitted, that the whole Guard was sent out with their Pieces loaded, and even with Orders to fire at all Ventures, in case of such Rescue. Was it not then a necessary Part of the Pannel's Duty to protect and support the Execution of the Convict, when hanging by the Neck in the Air, until such time as he was cut down by lawful Authority, as supposed fully dead? And 'tis certain, that, in Answer to the Pannel's Message, Orders were brought from the Bailiffs, that he should yet hang a Quarter of an Hour, which, surely, it was the Pannel's Duty to see obey'd, and which Orders of the Bailiffs the Mob nevertheless did resist, and cut down the Criminal long before that time was elapsed, and which the Pannel was, in Duty, bound to oppose; and from this Contrast, 'tis offered to be proved, all the violence in the Mob proceeded. But,

Can it be with any Justice affirm'd, but that the Pannel was in the Execution of his Duty, while he and his Guard were standing upon the Spot under Arms? Is not every Person in the Execution of his Duty while he is either going to, or coming from any lawful Expedition? And therefore it seems impossible to maintain, but that the Pannel, and the Detachment under his Command, were in the lawful Execution of their Duty, until they had once returned, and were dispersed and dismissed from Duty, at which time only, they were reduced under a private Capacity,

And

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And even the Protection of the Hangman, who had actually receiv'd several Wounds and Contusions, and was in danger of being tore to pieces by the Mob, was a Part of the Pannel's Duty. For tho' he is a Minister of the Law, somewhat odious, yet he is a necessary one for the Society, and lies under a great Necessity of being protected, from his being so obnoxious to the Resentment of the Mob; and, at least, in Humanity, must have such Protection afforded him, as to defend him from having his Brains knock'd out.

How then can it be said, in any sense, that the Pannel was in such Situation, that he could only plead the Benefit of Self-defence? It is a known Rule in Self-defence, that a Person invaded, must retire as far as he can with Safety; but if that is the Case of a City-Guard, (maintain'd at great Expence) that so soon as they are invaded, they must immediately betake themselves to their Heels, it will be apparent, that they are but kept up for very useless Purposes.

At the same time the Pannel can, with great Candor, aver, That he is far from being of that Disposition of Mind, as to be ready to take the Advantage, which the Law might afford, against an unruly giddy Mob, whereof he has given proof upon many Occasions, as must be allowed him, and whereof even the present Case will be an Instance in his favour, if he meets with Justice from the Evidence: But withal, he must be allowed to observe, That it would be a dangerous Position, that a Guard, kept up for the Maintenance of the Peace of the Capital City of this Part of the Nation, when they are assembled together upon Duty, should be allowed to plead no higher Privilege, than that of Self-defence in the strictest sense.

And whereas My Lord Advocate seems only to admit, that a Person who has Weapons put in his hands by lawful Authority, for the Defence of the Property of the Crown, or Liberty of the Subject, may only use those Weapons when he is in imminent Danger of having the Execution of his Trust defeated by Violence: If such is the case, the Execution of Duty will become a very ticklish point; and 'tis apprehended, that few Folk will be fond of it, if they can possibly live without it; and of consequence, such Doctrine must very much discourage any Persons from offering their Service, either to the Crown or Common-wealth.

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And as the supreme executive Power, is by the Constitution vested in his sacred Majesty our Sovereign, therefore my Lord Advocate, who by his Office is of Council for his Majesty in all Causes, will no doubt have due Consideration, how far an Argument is to be pressed against the Pannel, which by plain Consequence must tend to weaken, if not defeat, the Execution of the Laws.

One would rather be inclin'd to think, that where a Person has the Trust of the Execution of the Laws committed to him, the smallest Resistance to this Trustee, as such, is a guilty Aggression, and that every Opposition of such Aggression is lawful Defence; because no Man must be above the Laws, and the Life of the Laws, in which the Common Good is implied, is of greater Value than the Lives of any One or Number of the Individuals, and so ought to be defended at all Perils.

His Majesty's Advocate, upon this head, in his Information against the Pannel, does assume this Fact, That the Mob, or Multitude assembled at the Execution, were behaving themselves peaceably, and from this seems to draw his Inferences against the Pannel, which indeed will run high enough. The Pannel very well knows, that no Order whatever will justify the Person executing that Order, if such Order appears evidently to be unlawful; and yet in cases which appear doubtful, an Order from a Superior will have its own Weight, more especially in military Matters, or such other things as resemble them.

But with Submission, this Reasoning upon the Mob's being supposed quite peaceable and innocent, is intirely out of the case; for, as we are now upon Relevancy, the Facts must be supposed, and then the Argument considered in that view: And as the Pannel does aver, that he and his Guard, while in the Execution of their Duty, did meet with strong Resistance from the Mob, insomuch that many of the Men were greatly hurt and bruised: And if that was the case, it was an unlawful Invasion of Persons to whom the Execution of the Laws were committed, and so might be by them, in support of those Laws, resisted to a pretty great length; except it should be maintained, that in the Situation the Pannel and his Men were posted, they could plead no higher Privilege than that of Self-Defence; which, with great Respect, cannot be maintain'd but rather seems to be a Contradiction; because they had

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had not only their own Defence to take care of, but also the Defence of the Peace and Quiet of this City, and of the Execution of the Laws, and that due Obedience was given to them.

In a word, upon this head the Pannel's Argument is not only supported from the nature of the thing, because a Man who fights with the Laws upon his side, fights with great Advantage against the Laws: And for that Reason, if a Man were to fight a Duel, the Laws would be the best Second. But also 'tis believed, that no Instance can be given in this Country, or in any other civilized Policy and Government, where a Person, proceeding to what Extremities whatever against Persons who had assailed him while in the due Execution of the Law, ever suffered the Pains libelled.

My Lord Advocate seems to insinuate, as if the reading of the Riot-Act had been a Duty incumbent upon the Pannel, whereby the innocent part of the Multitude would have had time to have taken care of their own Safety: But then his Lordship will be pleased to consider, that no Person is, by Law, authorized to proclaim that Act, other than a Justice of Peace, Sheriff, Mayor, Bailiff, or other head Officer; and no Person, under any of those Characters, was left with the unfortunate Pannel; but he was abandoned, and left to grapple with Occurrences, in the best manner his own Discretion could suggest to him.

But then, the reading of that Act could not answer the present Exigency; for though the reading of that Law may, perhaps, answer the end for which it was intended, *namely*, the preventing the Demolition of any House or Meeting-House; but if the Pannel, in the present Case, shall be supposed bound to have kept his Hands across, for the space of one Hour after the reading of this Act, then it is certain, that, the Mob might have prevented the Execution of the Law in far less space. And it is certain, that, by the Act, the Mob is not put in contempt, or exposed to the Penalties of it, until once they continue together one Hour after the reading thereof.

His Majesty's Advocate is also pleased to hint, as if the offering of this Plea, in behalf of the Pannel, founded upon the Resistance of the Mob, was, in some sort, inconsistent with another to be hereafter mention'd for him, *viz.* His Innocence of the Facts. But, no doubt, my Lord

very well knows, That by the Laws of Scotland, there is no Inconsistency in such different Pleas. And this leads to the Consideration of the Exculpation offered for the Pannel, arising from his Innocence of the Guilt, either of the Action, Command or Order, charged against him in the Indictment.

And, in the first place, as to such Part of the Indictment as charges him with either having fired himself, or having given Orders to fire whereby *Charles Husband* was killed: Tho' it is indeed true, it is impossible, from the Nature of the thing, for the Pannel to prove an absolute Negative; because, as his Majesty's Advocate very justly argues, If the Charge in the Libel is proven, *to wit*, That the Pannel either did fire, or gave Orders to fire at this time himself, no negative Evidence can prevail against it; yet, as to this Point, the Pannel offers to prove, what the Lawyers call a circumstantiate Negative, which, in a good measure, resolves into an Affirmative, *viz.* That, at this time, when *Charles Husband* fell, and got the Wounds charged in the Indictment, whereof, 'tis supposed, he died, the Pannel, as has been above-recited, was in the following Situation; that is to say, he was pointing his Piece with his Face towards the *West-Port*, threatening the Mob, *That, if they would not keep off, he would FIRE*; and that immediately, upon this Expression, a private Centinel of the Guard came up from behind him, and discharged his Piece, by which it will be proven, *Charles Husband* received his Death-Wounds: because it shall be proven, by Persons of undoubted Veracity, that were hard by the Pannel all the time, that they not only observed that he did not fire his own Piece, and gave no Order for firing, joined with this other Circumstance, That no Proof will appear, during the whole Scuffle, that ever the Pannel made use of any Firelock but his own, and that his Piece, when he returned to the Guard, was found loaded, and in such Condition, that it was even confessed by the Magistrates themselves, and many others, not to have been fired; with this farther Addition, to exclude that farther Part of the Charge in the Indictment, of the Pannel's having made use, at any time, of any other Piece than his own, *viz.* That he carried his own Piece in his Hand the whole time, except during the space of Prayer above-mentioned, when he gave it to his Sergeant; and it shall also be proved, that there

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there was but one Shot fired at this time, at which *Charles Husband* is supposed to have received his Death-Wounds. And as to the other dropping Shots, that are charged in the Indictment to have followed upon this first Shot, if, from the Evidence adduced, the Pannel's Proof shall appear to be most pregnant, that he gave no Orders to fire at this time, then he is not chargeable with the Consequence of such Firings.

And this farther Circumstances must strongly operate in favour of the Pannel, *to wit*, that at the time of this supposed Orders to fire, the Men were not drawn up in a regular Line or Band, but were either straggling, mixt with the Mob, or in a circular Form, surrounding the Scaffold in the *Grass-market*; which excludes all Possibility of any supposed general Order to fire, unless it be supposed that the Pannel was a Madman, seeing any Compliance with such Order must have led the Men to fire each in his opposite Neighbour's Breast, and a great many into that of the Pannel.

It is not altogether impossible that the Pannel's Expression of the Word *Fire*, might have erroneously induced this Fellow that came from behind his Back (who of himself perhaps was too forward to embrace such Order, had it been given) to discharge his Piece, and if the Person firing was guilty of an Error, or of a Misconstruction of Duty, the Pannel is not chargeable therewith, seeing that every Person that has the least Knowledge of the Exercise of Arms, must know, that he is not to receive an Order to fire from Implication, but from some known certain Rule of Discipline.

And for this Reason it is, that the Pannel takes it to be a very wise Part of the military Institution, to avoid Misconstructions; that no Man receives Orders to fire, especially when he is resting or shouldering his Arms, but upon a precedent Series of Exercise, attended with some Solemnity, to avoid Mistakes, greater or less indeed according to the Nature of the Occasion.

Sometimes indeed, as was observed in the Debate on the side of his Majesty's Advocate, Persons, will, very justly, fire upon so short Advertisement as the Tuck of a Drum; but, 'tis believed, that is never practised but during the Noise or Tumult of Battle, when it is supposed that the Voice of verbal Order cannot reach the Men, and then this Tuck of

the Drum, or any other Signal of Firing, must be previously advertised to be the Signal of such Action.

Another thing falls also to be noticed here, touching this first Charge in the Indictment, and which may even be taken through the whole, that when two or more Persons are nigh together levelling their Peices at the same time, it is not easy for the sharpest Eye, especially if at any distance, to determine from what Piece the Fire proceeded; and of this point military Men, best acquainted with the Exercise of Fire-Armes, can give the best Account.

And *lastly*, upon this head, the best Conjecture the Pannel can make, is this, That upon this first Fellow's firing, without either Order or Example from the Pannel his Commander, the other dropping Shots that ensued, proceeded from other rash Fellows of the Guard, who, encouraged by this first Example, directed and discharged their Peices against such part of the Mob, as they respectively supposed any Injury or Invasion upon them had proceeded from.

The next material Circumstance charged in the Indictment, is that touching the Pannel's Behaviour at the *West-Bow*, where it is charged, *that he commanded the Men to face about, and fire upon the People; and that at or about the same time, he fired a Musket, or Firelock, that was in his own hand, having either reloaded, or cause to be reloaded, his own Piece, or taken another out of the hand of one of the Guard; and that upon this second Example and Command of the Pannel's several others of the Guard, under his Command, did fire, whereby the Persons mentioned in the Indictment, were killed and wounded.*

As to which Part of the Charge, the Pannel offers the following Proof; And, *first*, as to Order, he shall prove, by Multitudes of Persons nigh him at the time, and who were narrowly observing him (and Orders are generally given with an audible Voice) they heard no such Order given, nor heard no Expression of the Pannel, that, by the most remote Consequence, could have been interpreted an Order to fire: And here the Pannel's Memory, upon the most serious Reflection, cannot divine what could have given Occasion to any body's conjecturing, that he gave an Order to fire at this time. And here also the former Observation falls to be noticed touching the Solemnity of an Order for firing.

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2^{do}. As to the Action of Firing charged against the Pannel himself, for firing at this time, the Pannel offers to prove the very Centinel, at least that it was a Centinel of the Guard who gave the first Fire at this time, which was the Shot at *Robertson's* Clois-head. And the Pannel is inform'd, as has been above noticed, That at the time of taking the Precognition, an Offer was made to the Magistrates to single out the Fellow, if they would suffer the Guard to be drawn out, who fired that Shot towards *Robertson's* Clois-head, by which the two or three People fell. And further, the Pannel offers to prove, upon this Head, not only that this Fellow was the first Person that fired, without any Order from the Pannel circumstantiated, as is above noticed; but also by many Persons of undoubted Credit, that they could not observe the Pannel fire, or discharge any Peice himself, during the whole time that this Firing is supposed to have continued: And here the Pannel could evidently cast up many Inconsistencies to your Lordships, that must necessarily be implied, and many Presumptions that strongly exclude any supposed Order or Example of the Pannel at this time; but does not think it altogether so prudent to mention them at present.

As to the taking the Piece out of another Man's Hand, and firing of it, such Action was a remarkable Occurance, and must have fallen out under Observation; and so the Pannel can say nothing about it, but leave it to Evidence, with this only Observation, That, as it was a notable Event, it will operate almost as strong in the Negative as in the Positive. And it must be left to the Jury to ballance the Evidence, if a Contrariety shall appear, and to lean to that Side, attended with greatest Credibility, taking the known Rule of the Law into the Compass, namely, Favour to the Pannel in case of Dubiety. Only this Observation falls to be made to your Lordships, that the Circumstances of the Case call aloud for the Pannel's being allowed a Proof upon this Part of the Indictment.

The Pannel does agree with his Majesty's Advocate, that no negative Evidence can take away a positive Proof; but the Pannel humbly thinks he has offered a pretty circumstantiate one; And as my Lord Advocate seems to admit the Necessity of a Proof on both Sides, so the Pannel will not labour that Point with your Lordships; not doubting, but you will allow him, in general, to prove what he

can to exculpate him from the Guilt laid in the Indictment: and that your Lordships, by your Interlocutor, will allow him as much Scope in that Particular as any Precedent of your Lordships Court can authorize: And there are several Instances, and one very particular one, wherein great Latitude was allowed, both as to the Circumstances precedent, concomitant, and even subsequent to the Acts charged in the Indictment.

Some general useful Reflections might be made; but this Paper is already drawn out into too great Length, and as the Pannel has learned Judges, and a discerning and candid Jury, the less needs be said; because, 'tis supposed, they will naturally occur to these interested in the Trial; and, no doubt, such will lay aside all Prejudices and Prepossessions, and will never once think of, but utterly dispise the Consequences of popular Rage, or vulgar Clamour.

If the Pannel is guilty of the Charge in the precise Way and Manner it is laid against him in the Indictment, he is of Opinion himself, he deserves to suffer; but if, upon the other hand, it shall come out, that he is entirely innocent of the Blood of those Men wherewith he is charged, he thinks his Case deserves singular Commiseration; because, if Bonds and Imprisonment, Loss of Employment and Bread, Obloquy, and Reproach of Blood-guilt and Massacre, and of consequence Loss of Character, be Calamities in human Life, then has he had as great Share of them as ever attended Innocence.

JA. GRAHAM junior.

To her Most Excellent Majesty, *Queen Caroline, Guardian of these Realms*; the most humble Petition of *John Porteous, late Captain-Lieutenant of the City-Guard of Edinburgh*; now under Sentence of Death;

Captain Porteous's Petition on to the Queen.

Sheweth,

That a certain Person named *Andrew Wilson*, being convicted in the High Court of Justiciary of *Scotland*, for a Robbery of the publick Money, committed on the high Way, was sentenced to Death for that Offence; and it being apprehended, the Populace would rescue the said Offender, or commit some Outrage at his Execution, your Petitioner was appointed by the Magistrates of the said City, to attend such Execution with

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a Detachment of the City-Guard, with Orders to see the same duly executed, and to suppress any Tumults that might happen upon that Occasion: And, for that End, the said Detachment had Powder and Ball delivered to them out of the City-Magazine.

That, while the said Offender was hanging upon the Gibbet, the Populace began to insist to have his Body cut down, before the Magistrates had given Orders for that Purpose; and your Petitioner having no Authority to consent thereto, without such Orders, they threatened to cut him down by Force; and, in Order so to do, crowded in great Numbers upon your Petitioner and his Men, and did actually assault them with large Stones, by which several of the Detachment were hurt and wounded.

That during this Tumult, divers of the said Detachment, without Order from your Petitioner, unfortunately fired upon the Multitude, whereby several Persons were killed, and others wounded.

That your Petitioner, after having used his utmost Endeavours to restrain such Firing by his Men, perceiving them to run into Confusion, and to act without Orders, drew them off as fast as possible to the Guard; and committed such as he suspected to have fired, to the Custody of the Guard, together with their Pieces, which he ordered to be kept for Inspection, in the same Condition as they were then in.

That your Petitioner being accused of having himself fired upon the Multitude on this Occasion, and also of having ordered the Detachment to fire, without any just or reasonable Cause, your Petitioner was put upon his Trial in the High Court of Justiciary aforesaid, for the said supposed Offence, and the Jury empanelled to try your Petitioner, by their Verdict, found, *That it was proved, that your Petitioner had fired a Gun, and also had given Orders to the Detachment and Guard under his Command, to fire upon the Multitude so assembled; from which Firing, either of your Petitioner, or of the Detachment of Guard under his Command, by his Order, the several Persons specified in the Indictment against him, were respectively killed and wounded. And also found it proved, That the Mob assembled at the Execution aforesaid, did invade and attack your Petitioner, and the Detachment of Guard under his Command, with Stones, of a considerable Bigness, where-*

by several of the Men of the Guard were bruised and wounded.

Upon which Verdict returned by the Jury, the Court decreed and adjudged your Petitioner to be hanged upon a Gibbet, upon the eighth Day of September next.

That tho' your Petitioner is sensible of that Deference and Respect that's due to the Verdict of a *British* Jury, yet he humbly begs Leave to represent to your most excellent Majesty, the following Circumstances as they appeared upon his Trial; *to wit*, That the Evidence against your Petitioner, as to his having fired, or given Orders to fire, was very contradictory and inconsistent; for tho' some of the Witnesses deposed, That your Petitioner fired the first Shot, yet they differed extremely as to your Petitioner's Situation, at the Time he is alleged to have so fired, as well as in other Circumstances; some placing him at one Corner, and others at a quite opposite Corner of the Scaffold: Some alledging, That none of the Soldiers were then near your Petitioner, and that no other Shots were fired at that Time; while others describe your Petitioner as encompassed with Soldiers, and say, that several Shots were fired instantly upon your Petitioner's Firing such first Shot; and some agree, that the first Shot was not fired by your Petitioner, but by a Centinel of the Guard, who was close by your Petitioner.

Whereas, a great many Persons, of undoubted Credit and Veracity, produced on the Part of your Petitioner, expressly swore, That, during the whole Time of the Firing, (which continued about four or five Minutes) they took an exact Notice of your Petitioner's Behaviour and Conduct, and could not observe that he fired at all; but that, upon the Mob's pressing severely upon your Petitioner and his Men, and pelting them with large Stones, your Petitioner called aloud to keep off, otherwise he would fire; and that, upon your Petitioner's pointing his Piece, in Order to intimidate the Mob, a Centinel of the Guard, (unknown to the Witnesses) advanced from behind your Petitioner, and fired the first Shot, upon which one of the Multitude fell to the Ground: From which Example, they supposed, several others fired; by means wherof, the several Persons in the Indictment mentioned, were either killed or wounded.

And as a farther Circumstance, to shew that your Petitioner did not fire, it was proved,

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proved, that upon his Return from the Execution, your Petitioner went directly of his own Accord to the Magistrates, who examined his Piece, and found the same loaded, and in such Condition, that they agreed and were satisfied, it had not been fired; and the Serjeant of the Detachment attested, That your Petitioner having delivered his Piece to the Deponent to keep, while your Petitioner attended the Devotions at the Execution, the Deponent restored the same again to your Petitioner, just before your Petitioner descended from the Scaffold, which is a strong Circumstance to shew that your Petitioner must have fired his own Piece, if he had fired at all.

Your Petitioner also begs Leave humbly to observe, that when a Band of armed Men are together, and some of them fire, it is very difficult, especially for those at a Distance, to discriminate the Persons that actually fired; and your Petitioner is in Charity led to believe, that the Circumstance of your Petitioner's Levelling his Piece, and threatening to fire, attended with that of the Centinel's having fired just behind your Petitioner, may have induced some unwary Persons, in the Heat of Popular Fury and Resentment, to be too positive in the Assertion of Facts, in their Nature dubious and uncertain.

And as to your Petitioner's having given Orders to the Men to fire, though two or three Persons gave Evidence against your Petitioner as to that Fact, yet neither did they agree touching the Place where your Petitioner was standing, nor in the Form of Words pretended to be used by your Petitioner in the giving thereof. Whereas it was deposed by a great Number, particularly of the Soldiers, who were close by your Petitioner during the whole Time of the Fray, that they could not observe that your Petitioner gave any such Orders; but on the contrary, that he called aloud to the Men, *Don't fire*, and that he push'd back the Man that fired the first Shot into his Rank, (which shews that your Petitioner did not approve thereof;) that he drew off the Men as fast as he could; and that being pursued and pelted by the Populace, divers in the Rear turned about and fired, when your Petitioner was at such Distance, that he could not possibly be privy or consenting thereto.

It was likewise observed at the Trial, and not contradicted, That upon many

former Occasions of Tumults, when your Petitioner with the Guard hath been ordered to quell the same, your Petitioner had bore great Insults from the Populace, even to the Danger of his Life, without firing, or ordering his Men to fire, and that in Cases where he would have been well justified by the Law in doing either.

So that upon the whole, as your Petitioner hath the inward Satisfaction of being conscious to himself of his Innocence of the Facts charged against him, so he humbly apprehends, that the Evidence adduced to prove the same, when compared with your Petitioner's Defence, will not appear to be certain or conclusive.

But in Case your Petitioner had been guilty either of Firing, or ordering his Men to fire, upon the Occasion aforesaid, your Petitioner most humbly intreats your Majesty to consider, that your Petitioner was in the Exercise of a Trust delegated to him by the lawful civil Authority; that he and his Detachment were first unlawfully assaulted and invaded by the Populace, and divers of his Men bruised and hurt; and if, in the Case of such an Insult upon the Laws, your Petitioner had proceeded to repel Force by Force, your Petitioner humbly begs Leave to observe, That tho' he shou'd look back with the utmost Sorrow upon so fatal an Event, yet he humbly hopes that the Provocation and Aggression aforesaid, would be considered by your most excellent Majesty, in your profound Wisdom, as a great Extenuation of an Offence, which could not be supposed to be attended with any pre-pense Malice of your Petitioner, against Persons of whom he had no Knowledge; and that your Petitioner would be deemed a proper Object of the Royal Clemency.

Your Petitioner therefore most humbly prays Your most excellent Majesty, to take your Petitioner's unfortunate Case into Your Royal Consideration; and to extend that Mercy and Compassion to your Petitioner, by which your Majesty, adorned with all Excellent and Princely Qualities, is so remarkably distinguished; and that Your Majesty will be graciously pleased to issue Your Royal Warrant for your Petitioner's Pardon. And your Petitioner, whose Duty hath hitherto rendered him,

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on all Occasions, most zealously attached to His Majesty, and Our happy Constitution, will, from the additional Bond of the most powerful Gratitude, devote that Life to the Service of His most excellent Majesty, and His Illustrious House, which he shall enjoy as the Fruit of your Majesty's Clemency and Grace.

Great Application having been made to Her Majesty for Changing the Sentence pass'd on Captain Porteous from Death to Transportation, there was a Reprieve granted for six Weeks; which arrived at Edinburgh on Thursday before the Execution was to have been, which was appointed for the 8th of September. The News of which being known amongst the People, occasioned the Riot, of which our Correspondent gives us the following Account.

From Edinburgh,

Sept. 12, 1736.

We hear, That a very extraordinary Tumult and Execution happened there last Tuesday, the 7th Current. About 10 at Night, some Men, by Surprise, entered the City, seized all the Fire-arms, Battle-axes, and the Drums belonging to the City-Guard. The Mob in a few Minutes lock'd and secur'd all the City-Gates, and with Drums beat an Alarm, then attempted to force open with Hammers and other Instruments the Prison-Door; but these failing, they set Fire to it, and burnt it. When they entered the Prison, they called upon the Under-Keeper who was within, and made him open the double Locks of the Appartment where Capt. Porteous was; it had also a Bolt within, but was not bolted, so they had ready Access. He begg'd they would spare him 'till next Afternoon; but they refus'd his Request, and immediately hurried him away, which was about 11 o' Clock. When brought out of Prison, he was heard to cry. They then marched out with lighted Torches before them: In their Way to the Grass-Market, passing by a Barber's Sign-post, some called out to hang him up there; but it was resolved

to hang him where the Murder was committed; so they proceeded to the Place that the Gallows used to be fixed for Execution, where he was about a Quarter of an Hour, 'till they opened a Shop and brought out a Rope, one End of which they threw over a Sign-post, about 20 Feet high, belonging to a Dyer in the High-street, near the ordinary Place of Execution. He desired some Time to prepare for Death, but was answered, They would allow him no more than those who were shot. They then pulled him up in the Dress in which they found him, viz. a Night-Gown and Cap. He having his Hands loosed, fixed them 'twixt his Neck and the Rope, whereupon one with a Battle-ax struck towards his Hands. They then let him down, and having on two Shirts, they wrap'd one of them about his Face, and tied his Arms with his Night-Gown; then pulled him up again, where he hung next Morning 'till Day-light. When he was cut down, and carried to the Grey-friers Church, upon Inspecting his Body, it appeared his left Shoulder was wounded, his Back discoloured, and his Neck broke.

It was observed, that this Mob was under a stricter Concert and better conducted than usual; for, as marching along to the Execution, Porteous observing a Gentleman of his Acquaintance, he gave him a Purse of 23 Guineas, which he desir'd might be delivered to his Brother. They left the Prison-Doors open, and Liberty to the Prisoners to make their Escape; and after the Execution was over, they left the Arms and Drums on the Place of Execution, where they were found the next Morning. During the Tumult, Parties of armed Men, with Drums, patroled in the different Streets, to prevent any Surprise from the King's Forces, quartered in the Suburbs. After the Execution was over, they went to the Lord Provost's House, and told him, they were satisfied, and so dismiss'd, without offering any other Violence.

There is one Circumstance mentioned by some, That in Order to supply the Want of Clergymen, they ordered two of the gravest of their Number to exhort him, as he went to the Place of Execution.

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Proceedings

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Proceedings against THOMAS M^cADAMS Soldier,
and JAMES LONG, Corporal, for Murder. Anno
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THOMAS M^cADAMS, Soldier in the Regiment of Foot commanded by Colonel — Hamilton, at present Prisoner within the Tolbooth of *Edinburgh*, James Long, Corporal in the said Regiment; both of them indicted and accused at the Instance of *Duncan Forbes*, Esq; His Majesty's Advocate, and Mr *Hugh Forbes*, Advocate, Procurator Fiscal of the *High Court of Admiralty*, for the Crime underwritten, in Manner mentioned in the *Criminal Letters* against them there-a-next, in Manner after specified.

GEORGE, by the Grace of God King of Great Britain, France and Ireland, Defender of the Faith. To — Officers and Serjeants of Our *High Court of Admiralty*, conjunctly and severally specially constitute, Greeting. Forasmuch as it is humbly meant and complained to Us by Our Right Trustee *Duncan Forbes*, Esq; Our Advocate, and Mr *Hugh Forbes* Advocate Procurator Fiscal of Our *High Court of Admiralty* for his Interest, upon *Thomas M^cAdams*, Soldier in the Regiment of Foot commanded by Colonel — Hamilton, at present Prisoner in the Tolbooth of *Edinburgh*, and *James Long*, Corporal in the aforesaid Regiment; That whereas by the Laws of God, of this and all other well governed Realms, the atrocious Crime of Murder or Manslaughter is most heinous and severely punishable; yet true it is, that the said *Thomas M^cAdams*, and *James Long*, and each, or one, or other of them, are guilty Actros, Art and Part, of the said most heinous Crime, in so far as shaking off all Fear of God, and Regard to the Laws of this Realm; and having without any just Provocation conceived a deadly Malice against the deceased *Hugh*

Frazer younger of *Bellnain*, Merchant in *Inverness*, upon the fourth Day of *June*, One Thousand Seven Hundred and Thirty five Years, or one or other of the Days of the said Month, or upon one or other of the Days of the Months, *May* preceeding, or *July* following, they with several other Persons then in Company with them, armed with Guns, Bayonets, Blunder-Busses, and other hostile and mortal Weapons, came in an open Boat off the Shoar of *Nairn*, on the High Seas, and there having espied the said Defunct in another Boat, they the said *Thomas M^cAdams*, and *James Long*, and others in Company, thereupon rowed the Boat, wherein they were, streightway upon the Boat wherein the Defunct was, at least the said Boat wherein the said *Thomas M^cAdams*, and *James Long* were, came up with the other Boat wherein the said Defunct was; and so soon as the said *Thomas M^cAdams* and *James Long* came near the said Boat, they screwed their Bayonets upon their Guns, and cock'd the same which were loaded. And in Prosecution of their Intention to murder, upon the two Boats approaching and coming close together, they kepted their Guns levelled against that Part of the Boat where the Defunct was. And so soon as the said *Thomas M^cAdams* and *James Long* came within Reach, pushed with their screwed Bayonets several Times at the Defunct, who was unarmed, and perfectly defenceless. Altho' the said Defunct had before that Time called out to use no Violence, and not fire, for he and all the Crew with him were in the Will of them the said *Pannels*, and other Persons with them in the Boat: and that they might come on Board, or Words to that Purpose. And altho' in the Morning of said Day, the said *Thomas M^cAdams* and *James Long* knew that no Resistance had

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had been made, when they with others came on board another Boat wherein the Defunct was: nevertheless they, contrary to the Advice given them by one of the Persons with them in the Boat *not to be rash*, continued their Attacks upon the Defunct, and the Boats being close together, he the said Defunct had no other Way to escape instant Death, but by catching Hold of the Muzzles of their Guns, and holding them up so as to prevent any Mischief in Case they had discharged the same. And having thus caught hold of the Guns for his own Preservation, he without any Weapons step'd, or was pull'd into the Boat where the said *Thomas M^r Adams* and *James Long* were, and endeavouring still to keep Hold of the Guns, the Struggle occasioned thereby, or the Motion of the Boat threw them the said Pannels with the Defunct down in the Boat. At or about which Time the said *Thomas M^r Adams* most feloniously, and with a murd'rous Design unscrewed the Bayonet off the Muzzle of a Gun, and therewith most cruelly gave the Defunct a Stab or Wound in the Breast, of which Wound he very soon thereafter died; and he the said *Thomas M^r Adams* was seen at the same Time to wash the Blood from his Bayonet. And as a farther Evidence of his barbarous and wicked Intention, he declared that would the Defunct come again into the Boat, he would give him what he came for, and what he got before; and no sooner did they the said *James Long* and *Thomas M^r Adams* Pannels, or one or other of them, perceive this, than they, in order to bereave the Defunct of his Life, threw the said Defunct, then in a helpless Condition, over board into the Sea: And when he caught Hold of the other Boat, he the said *James Long*, in order to beat him down, barbarously and violently struck the Defunct with his Gun, so that the Violence of the Stroke broke the Iron Ram-rod thereof; and the Defunct being taken out of the Sea into the Boat where he first was, died in a few Minutes thereafter. *From which Facts and Circumstances it is plain*, That they the said *Thomas M^r Adams* and *James Long*, and each of them, are guilty, Actors Art and Part of the *Crime of Murder or wilful Man-Slaughter at least*, at the Time and Place above-mentioned the said *Hugh Fraser* did receive a Wound in the Breast by a Bayonet, Sword, Dirk, or other Mortal Weapon, and a severe Blow, of which Wound or Blow he in-

stantly died. And they the said *Thomas M^r Adams* and *James Long* are guilty, Actors Art and Part of giving the said Wound and Blow, *which Crime*, or their being guilty, Actors Art and Part thereof being found proven, by the Verdict of an Assize before the High Court of Admiralty of Scotland, to be holden at Edinburgh on the seventeenth Day of September next, the said *Thomas M^r Adams* and *James Long* ought to be punished with the Pains of Law, to the Example and Terror of others to commit the like in Time coming. *Our Will is therefore, &c.* as in the said Criminal Letters bearing Warrant, to cite the above *Thomas M^r Adams* and *James Long* complained upon, and also for citing Assisers and Witnesses contained in a List signed by the Judge and Pursuer, and the Criminal Letters signed by the Clerk bear.

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Procurators for the Pursuer.

Mr Hugh Forbes, Advocate, Procurator Fiscal.

Mr Alexander Lockhart, Advocate.

Procurator in Defence.

Mr Hugh Dalrymple.

The Grounds of the Criminal Libel and Indictment, at the Instance of *Duncan Forbes, Esq;* His Majesty's Advocate, and *Mr Hugh Forbes, Advocate Procurator Fiscal* of the High Court of Admiralty, against *Thomas M^r Adams* and *James Long*, Pannels, being fully debate *viva voce*, the Judge of the High Court of Admiralty, continues the Diet at the Instance of His Majesty's Advocate, and Procurator Fiscal, 'till Thursday the twenty fifth of September current, at ten of the Clock in the Forenoon. And ordains both Parties to give in their Informations betwixt and that Time; the Pursuers to give in theirs betwixt and Friday next at six o'Clock at Night; and the Pannels to give theirs in betwixt and Tuesday at twelve o'Clock in the Forenoon, in order to be recorded in the Court Books. And ordains Assisers and Witnesses to attend the said Diet, each Person, under the Penalty of One Hundred Marks, and the Pannels to be carried to Prison. Signed,

James Grabam.

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The Procurator Fiscal thereafter represented, That *Thomas M^c Adams*, one of the Pannels, had taken out Letters of Intimation from the Justiciary, which is not a competent Court. And that the Days were near run, and desired the Pannel would declare, *if or not* he intended to plead the Benefit of these Letters.

Dalrymple for the Pannel declared he past from any Benefit, that might be competent to him in Virtue of any such Letters, and is willing his Client sign the Passing from the same.

Compeared the said *Thomas M^c Adams*, and judicially passes from any Privilege or Benefit he may have in Virtue of the Letters of Intimation taken out by him from the Court of Justiciary, and consents that the Criminal Tryal or Indictment at his Majesty's Advocate, and the Procurator Fiscal of Court, their Instance, go on against him in the ordinary Form and Diets of Court, as if no such Letters had been taken out and executed by him. Signed,

Thomas M^c Adams.
Ja. Graham.

Information for his Majesty's Advocate, and Mr Hugh Forbes, Advocate Procurator Fiscal of the High Court of Admiralty, Against Thomas M^c Adams, and James Long, Pannels.

Both the said Pannels are accused before the Judge of the *High Court of Admiralty*, as guilty, Actors Art and Part, of a most barbarous Murder committed upon the deceased *Hugh Fraser*, younger of *Bellnain*, Merchant in *Inverness*; and the Fact, as charged in the Criminal Libel, is, That upon the fourth Day of June last, the said *Hugh Fraser* being then with some others, all of them unarmed, in an open Boat, upon the High Seas, off the Shoar of *Nairn*, in Prosecution of their lawful Business, and offering Violence or Disturbance to no Person, were made up to by the Custom-house Boat, having on board several Persons, and amongst these the Pannels, who, upon their first Appearance, were discovered to be armed with Guns, and screwed Bayonets; and which Guns afterwards appeared to have been charged, and were then cock'd and levelled against that Part of the other Boat where the Defunct stood: That upon the two Boats coming close together, and so soon as the said *Thomas M^c Adams* and *James Long* came within

Reach, without giving the least Intimation of their Design, other than what was to be dreaded from their outward Appearance, and without demanding, or endeavouring to force Admittance into the other Boat, *the first Salutation given was a Thrust* made by each of the said Pannels with their screwed Bayonets against the Defunct, who then unluckily happened to stand on the Side of the other Boat opposite to them; though at the same Time, it is said in the Libel, and will be proved, That so soon as the two Boats came so near, as to be in speaking terms, the Defunct called out to the Pannels to use no violence, and not to fire, for that he, and the others in Company with him, were at their Will: *Notwithstanding of which* the Pannels in execution of their premeditate Malice, and contrary to the Advice of their own Companions, did, without the least Provocation, Resistance, or so much as attempting to board the other Boat, begin the Attack in manner libelled; and by these two Thrusts would then have undoubtedly bereaved the Defunct of his Life, had he not found means to evade the Thrusts, at the same Time catching hold of the two Guns, and holding them up, so as to prevent Mischief, in case they had discharged them; and in the Struggle, which ensued upon this, the two Pannels endeavouring to pull away and recover the Guns, and the Defunct having his Grip, the Custom-house Boat being then on Float, the Defunct was either pulled or forced to step into the Custom-house Boat, not daring to let go his Hold, of the Guns, and stand in chance of other two Thrusts: In which Struggle, or by Motion of the Boats, all the three fell to the Ground, *Whereupon* the said *Thomas M^c Adams* did deliberately unscrew the Bayonet from off his Gun, and thereby gave the Defunct a mortal Wound on the Breast, of which he immediately fell down, and probably would have died; but the Pannels not satisfied with the Barbarity already committed, and in further Prosecution of their premeditated Design to murder, did in a most cruel and barbarous Manner toss the Defunct, then in a helpless Condition, over board into the Sea; and upon his catching hold of his own Boat, and endeavouring so to save himself from drowning, the Pannel *James Long* struck him down with his Gun, with such violence, that the iron Ram-Rod was broke by the force of the Stroke; of the which Wound and Stroke the Defunct

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funct died in a few Minutes, being taken up into his own Boat. From all which the Libel concludes most relevantly, that the Pannels, and each of them, are guilty, Actors Art and Part, of the Crime of Murder, with which they are charged, and ought therefore to underly the Pains of Law.

No Objection was offered in behalf of either of the Pannels to the Form of the Libel, neither did the Procurators for *Thomas M^r Adams* object to the Relevancy, in so far as regarded him; but did admit, that he being charged as guilty of Murder, by giving that Thrust, or Wound, in the Breast, of which the Defunct died, the Trial must proceed: but in so far as regarded *James Long*, the other of the Pannels, and the Relevancy of the Libel against him, it was said, that the Prosecutors having in the Libel acknowledged, That the Wound which the Defunct received in his Breast, was given by *Thomas M^r Adams*, the other of the Pannels, and that the Defunct very soon thereafter died of the said Wound, it followed as a necessary Consequence, that the actual Murder could not be charged on *James Long*: And however culpable he might have been, if truly guilty of tossing the Defunct overboard into the Sea, after having received and being disabled by the Wound in his Breast, and thereafter knocking him down with his Musket, when endeavouring to save himself from drowning; yet as these Facts would not infer Murder, and did amount, at most, but to an atrocious Riot, which was no Part of the Crime here charged; therefore it was subsumed, that the Libel, in so far as it concludes only actual Murder, could not be found relevant against *James Long*.

To this it was answered for the Prosecutors, that the Libel was equally relevant against both the Pannels, and behoved to stand or fall in whole; for that it expressly bears, that both the Pannels are guilty, Actors Art and Part of the Crime of Murder; and then proceeds to set forth the particular Way and Manner, in which the Murder was committed: in either of which respects, the Libel was most relevantly laid against both the Pannels; the actual Murder is charged against both, which is all that is requisite to establish the Relevancy of a Libel founded upon that Crime; the Way and Manner how that was committed, is in the Proof, will come under the Cognizance of the Jury; neither is it of any Moment, that in the

Subsumption of that Part of the Libel relative to *Thomas M^r Adams*, the Defunct is said to have died of the Wound given by him; because it will be observed both the Pannels are separately libelled as Art and Part in the Murder, which by special Statute is declared *per se relevant* in all Cases, without any particular Condescendence: what Circumstances are sufficient to infer Art and Part, must depend upon the Proof, and lies before the Jury.

Upon this Point it was likewise added, in behalf of *Thomas M^r Adams*, that *James Long*, the other Pannel, being a necessary Witness for him to prove the Way and Manner how this unlucky Accident happened, with certain Articles of Exculpation, which were then offered in Court, the Prosecutors had bethought of this Stratagem to conclude against them both as *Socii Criminis*, and by that means to preclude either of them from the Benefit of the others Testimony; and therefore did insist, that the Trial might be divided, and that *James Long* should be first proceeded against and no doubt: but such is the Justice of our Law, that where it appears any undue Advantage of this kind is aimed at, there the Judge will interpose, and by dividing the Trials, allow the Pannels the Benefit of the Testimony of those Witnesses, who appear the least guilty or altogether innocent, and are only brought into the Libel to render their Testimony ineffectual to the other Pannels. But is there the Colour of a Reason for this Objection in the present Case? Have the Officers of the Crown, who are the only Prosecutors, a Design to bereave either of the Pannels of their Lives, without allowing them a fair Trial? Are they now insisting against any but those two Fellows, who by the Pannels own Acknowledgment were engaged in that Scuffle with the Defunct, when he received his Death? Or, which of all other Circumstances is most material, is there here any Penury of Witnesses? Something of this kind might with Reason have been alledged, if all those who were in the same Boat with the Pannels, when the Murder was committed, had been accused. But when the Fact is, that of eleven People who were in the Custom-house Boat, two only are accused as guilty of the Murder, it must appear to Demonstration, that nothing of this kind is here either invidiously done or intended, that the Pannels can be under no Penury of Witnesses,

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and therefore, that there is no Reason for dividing the Trial.

The Procurators for the Pannels denying always the Libel, did in next Place by a Recital of the Fact, in a Manner altogether different from what is laid in the Libel, endeavour to exculpate themselves from the Guilt of the Murder. And in this View did alledge the true Fact to have been, That *Hugh Frazer* the Defunct, and some others, being concerned in a Cargo of Wine, then on board a Ship lying in the *Firth*, did intend to run the said Goods ashore, without making true Entries, or paying the King's Duty; that the Custom-house Officers in that Part being apprised of this, and fearing to meet Resistance, did apply to Lieutenant *Cawfield*, Fort-major and Commanding Officer in that Place, and obtained from him a Corporal and three Soldiers to go along with the Custom-house Boat, and be assisting in making the proper Seizures; that accordingly, the said Party, in all about eleven, of which Number the Pannels were two, did set out in the Custom-Boat early in the Morning of the same Day, being the fourth of *June*, and in their Way met with the same *Hugh Frazer* the Defunct, and some others in another Boat, to whom they made up, but were called to by him to stand off, for that if he attempted to board their Vessel, they would be all knock'd on the Head; at which time, the two Boats being so near, that the Pannels, and the Rest of the Crew with them, did easily discover, that the other Boat did only carry one Hoghead and a half, and a small Chest, they concluded the same to be a Decoy to lead them from the Scent of greater Game, and therefore chose, without coming to Blows, to abandon that Seizure, and go in quest of others; that accordingly in the Afternoon of the same Day, they again met with the said *Hugh Frazer* in another Boat, having on Board to the Number of twelve or fourteen Persons, and coming up to the same, were called to by the Defunct, not to come aboard, otherways they would repent it; and upon the two Boats coming close together, *Hugh Frazer* the Defunct having at first with his Foot or otherways endeavoured to shove off the Custom-house Boat, but thereafter observing the Pannels with their Guns and Bayonets, did immediately leap from his own into the Custom-house Boat and seized the two Guns, endeavouring to disarm the Pannels, and was immediately

followed by four others of the Crew, who all leapt into the Custom-house Boat, one of them having a cocked Pistol, with which he struck down one of those in the Custom-house Boat, who had a Blunderbuss in his Hand, and threw the Blunderbuss over-board; by all which as a great Confusion was occasioned, it might possibly be true, that in the Scuffle the Defunct received a Wound in his Breast, and soon thereafter died. And in this favourable View of the Matter, supposing the Fact to have truly happened as represented on their Part, it was further contended, that as the Smuggling Trade, and clandestine running of Goods without Entry, or paying the King's Duties, is contrary to Law, and prohibited under severe Penalties, and those concerned in it, *versantes in illicito*; so it is the Duty of the Custom-House Officers in their respective Posts, to watch against those unfair Practices, and to make the proper Discoveries and Searches tending to that End; for facilitating of which, they are by Law entitled to Admittance into any Vessel, and in Case of unlawful Resistance to force their Way *Vi & Armis*, even with the Hazard of the Lives of those who shall dare to oppose them. So that if the Fact comes out to be, that they demanded Access into the Vessel, and were not only refused, but violently resisted when endeavouring to get in; it was lawful for them to force their Way, and if necessary, even to kill those, by whom the Resistance was made: Which Privilege, the Procurators for the Pannels were pleased to say, was not peculiar to Custom-House Officers alone, but to all other publick Officers of the Realm, who not only may, but are bound to execute the Duties of their Office at all Hazards. And in Support of this Doctrine, some Observations were made upon the many Inconveniencies and Disturbances that must necessarily arise, particularly in the Matter of the Customs, if the publick Officers of the Nation might upon every Occasion be stoppt and deforced in the Execution of their Offices.

Abstracting from the foregoing general Defence, and upon Supposition of the Fact as above, a separate Defence was pleaded for both the Pannels, *viz.* That when they in a peaceable Manner, and in Discharge of their Duty, without any other Provocation, did demand Admittance into the Custom-House Boat, in Order to make Prize of the unaccustomed Goods

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Goods therein; they were immediately attacked by the Defunct, who leaped into the Custom-House Boat, seized the Guns of the two Pannels, and endeavoured to disarm them, and was immediately followed by four more; one of them having a cock'd Pistol in his Hand, with which he struck down one of the Persons in the Custom-House Boat. And that this being truly the *Initium Rixe*, the Attack was first made by the Defunct and his Associates upon the Pannels, who were thereby *constituti in Periculo Vitæ*; and seeing a cock'd Pistol in one of the Invaders Hands, had Reason to imagine, that they were immediately to be followed and assisted by the Rest of their Crew, who for any Thing known to them, might all have Arms. So that from the universal received Laws of Self-Defence, it was lawful for them to repel Force by Force, and cannot be said to have exceeded the *Moderamen inculpatae Tutelæ*; where the Danger was so apparent, and the Consequences of their Suffering themselves to be overpowered so uncertain.

This being the Substance of what was offered in Behalf of the Pannels, the Prosecutors do not mean to insist, that the Defences offered, as founded upon Facts inconsistent with the Libel, ought therefore to be *simpliciter* repelled, and the Libel only admitted to Proof; they believe it to be the Practice, and justly so in criminal, as well as in civil Cases, that where the Allegations of Parties are contradictory, a conjunct Proof will be allowed; or, which in Effect is the same Thing, a separate Relevancy will be determined both as to the Libel and the Defence, and both admitted to Proof. By which Concession in Point of Law, the Prosecutors would not have it understood, as if they did in the smallest Degree depart from the Fact, as set forth in the Libel; or admit of any one Particular, as alledged inconsistent therewith, to be either true or relevant. They have Reason to believe the Proof will be full in every Article, particularly, that in the Morning of the said Day, when the first Boat, in which the Defunct was with several others, was met by the Pannels and others in the Custom-House Boat, it is so little true, that either the Defunct or any other of his Company used these threatening Expressions; that on the contrary, they submitted voluntarily to the Seizure, and actually received into their Boat *John Robertson*, one of the Custom-

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House Officers; and just so in the Afternoon of the said Day, upon the second Rencounter, on the first Approach of the Custom-House Boat, the Pannels having their Bayonets screwed on their Guns, cocked and levelled against the Defunct, and those in the Boat with him; the Defunct called aloud to use no Violence, and not to fire, for that he and the Crew were at their Will; so little was there any previous Provocation or Cause given for the barbarous Murder after committed. But as these Facts are already sufficiently set forth in the Libel, and, as is believed, will come out upon the Proof, with several aggravating Circumstances; it seems unnecessary to enlarge farther upon them at present; so that it remains only to examine the Relevancy of the two general exculpatory Defences pleaded for the Pannels.

And in Answer to the first of them, *viz.* That they being in their Duty, as having received Orders from the Commanding Officer in the Place to assist the Custom-House Officers, and as such entitled to Admittance into the Boat; it was unlawful in the Defunct to refuse the same, and consequently lawful for them to force their Way; and, in Case of Resistance, even to kill: If the Prosecutors are rightly informed, it will come out upon the Proof, that they had no proper Orders, if any at all, and therefore were by no Means there upon Duty, but, as private Adventurers, went along in Hopes of a Share of the Booty: for as to the alledged Order from Lieutenant *Cawfield*, tho' true, it could not possibly avail. He is no Officer in that Regiment, and as Fort-Major has no Sort of Command over the Military, and therefore could give no such Orders. But admitting this pretended Order from a proper Commanding Officer, were they authorized, or could any Officer give them Orders to begin an Attack upon the very first Approach, without knowing whether they were to be opposed or not? or, which is truly the Case, after an explicate Declaration to the contrary? They were there at most but as Assistants to the Custom-house Officers, and therefore ought to have waited their Orders to make any Seizure, or to begin any Violence. Instead of which, no sooner did the two Boats come in View of one another, but these Pannels put themselves in a Posture, and made ready for the Attack, tho' earnestly required by the Waiters and Custom-House Boatmen not to be rash.

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And tho' there is all imaginable Reason to believe, that the Fact will come out so upon the Proof, yet admitting it to be otherways, the Prosecutors cannot persuade themselves, that there is the least Relevancy in the Defence, which, as laid, is absolutely inconsistent with the common Principles of Law, the universal Practice in this and other Parallel Cases, and, if authorized, would be attended with the most dangerous Consequences to the Peace, Lives, and Liberty of the Subject. The Rule of Law is directly otherways, That no Officer of the Law, tho' illegally deposed in the Execution of his Office, is thereupon entitled to proceed to such Extremities, unless where the Law is special to that Purpose: Of which we have some Instances in our *Statute Books*; particularly, in the *Act* of King James VI. *Anent Masterful Reifs and Depredations*. There the Law thought proper, in Odium of so notorious a Crime, to constitute the whole Lieges the publick Executioners of the Law, and to authorize the Nation in general, at their own Hand, to take Vengeance of that Crime, *indemnifying* them at the same Time from all the Consequences. And as a particular Law was necessary in this Case, it shows the Genius of the Law in general to be, that in no Case is any Person, whether in a publick or private Capacity, allowed to be Judge for himself, and much less on that Account to embroil his Hands in his Neighbour's Blood. The Cognizance of all such Matters are wisely reserved to the Judges of the Land. The Lieges or Subjects are intitled to a fair Trial, and not to be knock'd on the Head by every little Custom-House Officer, Messenger, or their Assistants, under Pretext, that they oppose them in the Execution of their Office. Where that happens to be the Case, the Law is patent, *but an Indulgence* of this Kind is of that Nature, as would necessarily expose the Lives of the Lieges to the Caprice of every petty Officer of the Law, whose Judgment or Integrity is seldom proper to be entrusted in a Matter of much less Consequence.

In a particular Manner this appears to be the Disposition of Law in Matters of Seizures, which as it provides anxiously against, and endeavours by all prudent Measures to prevent the pernicious Practice of Smuggling, by imposing severe Penalties upon all such as are any ways concerned in the clandestine Running of Goods,

upon Masters of Ships, who suffer the said Goods to be carried out of the Ships without regular Entries, and by Confiscation of the Goods themselves; so it would appear, that the Legislature considered these as sufficient to deter any Person from adventuring on the like Practices, tho' few Laws can be made so severe, that some People will not dare to break over. But where that happens, has the Law said, that in small Cases, particularly in this of Seizures, that the Custom-House Officers, who are entitled to make these Seizures, shall have Liberty to put to Death all such as join in the Opposition? No Law surely has said any such Thing, and to be sure never intended it. In such Case it is the Duty of Custom-House Officers, if refused Access, to plant Guards, so as to secure the Goods from being embezzled, or to call for such Assistance as may be sufficient to make the Seizure; and in all Events, there lies an Action at Common Law for the Penalties enacted, and the Value of the Goods: but that they are at Liberty to force the Seizure at the Expence of the Lives of whatever Number of His Majesty's Lieges they please, is no ways warranted from the Words *Intendment* or *Reason* of any Law, and is directly contrary to the *Analogy* of Law in other Cases of the very same Kind. Thus, by the famous Statute 12th of K. Charles II. *it is specially provided*, That if any Goods are landed, for which Duties are payable, without Entry thereof, Application must be made by the Customer or Collector to the chief Magistrate of the Place, showing where the Goods are; which Magistrate is thereby impowered to issue Warrant to any Person, with the Assistance of a Constable, or other Officer, to enter the Houses, where such Goods are suspected to be concealed, and, in Case of Resistance, to break them open. And in like Manner, by the Statute *Decimo Georgii Primi, Cap. 9.* in Relation to the Duties granted upon Coffee, Tea, &c. where the Officer for the said Duties suspects, that any of the foresaid Commodities are fraudulently concealed, and is desirous to search the suspected Houses, the Law directs that Application must be made to a Justice of the Peace, or other Magistrate, who, upon Cognizance of the Grounds of Suspicion, are impowered to grant Warrants to enter such Houses; and a special Penalty is enacted against such as shall obstruct or hinder any of the said Officers from so Entering. *Many other*

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Laws to the same Purpose, in Relation to particular Duties might be observed; particularly, the Act *Octavo Georgii Primi*, entitled *Anent the clandestine Running of Goods, &c.* and *Sexto Georgii*, entitled, *For preventing the Frauds and Abuses in publick Revenues of Excise, Customs, &c.* And all the Statutes in Relation to the Duty upon Salt; by all which, after prescribing the Rules how these Searches and Seizures are to be made, in Case of Resistance, special Penalties are enacted against such as shall violently obstruct the Execution. And no Instance can be given, whereby any Statute in Relation to any Seizure or Search for unaccustomed Goods, either at Sea or Land, the Officers are empowered by their own Authority to use Violence, be the Consequence what will, and to force Admittance.

And so this Matter was solemnly adjudged in two parallel Cases by the Court of *Jusiciary*. The first, in the Year 1672, where Mr *Archibald Beath* was indicted for the Murder of *Allen Gardner*, the Case of which was, in most Respects, parallel to the present. Mr *Beath* was concerned in a Seizure of Meal brought from *Ireland*, which was not only absolutely prohibited, but the Vessel ordained to be sunk. *Allen Gardner* opposed the Seizure, made off with the Meal, and attempted to run down the other Boat. Upon which some Guns were discharged, and *Allen Gardner* killed. The Defence they added was the same as now offered for the Pannels, That they were entitled to make the Seizure, and were opposed in it, which justified the Murder that followed. Notwithstanding of which he was put to the Knowledge of an Inquest, and being found guilty, was condemned to lose his Head. And in like Manner, in February 1674, some Soldiers who were ordered by their Officers to be assistant to a Messenger, in an Execution of *poynning*; in which they were forced, having killed a Man, they were thereupon criminally pursued, and found guilty. And surely there is nothing peculiar to Seizures at Sea of this Kind, which ought to distinguish them from common Cases. A Waiter at the Port of this Town, who collects the petty Dues, and gathers the Town's Impost, is as much entitled to levy these, to search for and stop unaccustomed Goods, as any Custom-House Officer is to make Seizures of, or search for counterband Goods at Sea. And yet surely it would be ludicrous to pretend, that if any Person should

endeavour to force his Way into the Town without Payment, or otherways to obstruct these Waiters in collecting these Dues, that they, as in Execution of their Duty, would be impowered to use Violence, and could not be charged with the Consequence, tho' never so bad. All Opposition of this Kind to any Officer of the Law, though in their Duty, is at most but a Deforcement, which may subject the guilty Persons to the special Penalties enacted by Law against such as are guilty of that Crime. But it could never be the Intendment of the Law upon that Account, to make Murder lawful, or to justify the Committers of it. That would be in other Words, to make Death the Punishment of Deforcement. And therefore to conclude upon this Point, as the Defence here offered is founded upon Supposition of certain Facts inconsistent with the Libel, and the contrary of which will be proven, so admitting these to be true, the same is absolutely irrelevant.

As to the other exculpatory Defence likewise offered in Behalf of both the Pannels, that they being first attacked by the Defunct, who leaped into the Custom-House Boat before any Violence was offered, catching Hold of the Pannels Guns, and endeavouring to disarm them, and was followed by other four, one of them having a cock'd Pistol in his Hand, with which he knock'd down one of those in the Custom-House Boat, it was lawful for them as being thereby *constituti in Periculo*, and having Reason to apprehend the Worst, to stand to their own Defence, and to repel the Force, tho' with the Death of one or all of the Transgressors.

As by the Proof upon this Point it will come out, there were no less than eleven Hands in the Custom-House Boat, five of these armed with Guns, and three screw'd Bayonets, it is highly infesible that the Defunct by himself, and without Arms, should leap into a Boat full of armed Men with an Intention to master the Boat and disarm the Crew. No Man living will believe that could possibly be his Intention, and it is almost equally improbable that the other four, only one of them said to have had a Pistol in his Hand, would have joined in so impracticable an Attempt, and in a manner to have rushed upon immediate Death: whereas, on the other Hand, the Account of the Matter as set forth in the Criminal Libel, is plain

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and natural: the Defunct had evaded the Thrusts made by the Pannels with their Guns and screw'd Bayonets, and catching Hold of the Guns, which he was unwilling to let go, was in the Struggle, or by the Motion of the Boats, which were then close together, pulled out of the one into the other, and immediately received his mortal Wound. Then it was that some in the Custom-House Boat, who disapproved of the Violence, and had cautioned the Pannels against it, called out to those in the other Boat, praying them for God's Sake to come in and endeavour to make Peace; when, and no sooner, two or three at most stepped into the Custom-House Boat; but as before that the Defunct had received his Wound and was immediately thrown over board, so they returned into their own Boat without offering any Violence, other than a small Scuffle betwixt Mackinnan, who was in Company with the Defunct, and had gone into the Custom-House Boat, and Tounson and Thomas Smith, two of the Crew belonging to the Custom-House Boat, one of which, viz. Tounson, had a cock'd Blunder-Buss in his Hand, and Smith a Gun, then likewise cock'd and levelled at the Defunct ready to shoot; but was prevented from doing the intended Mischief by Mackinnan's knocking the Gun out of his Hand. But as the Defence here offered for the Pannels, is founded upon Supposition that the Fray happened in the Way and Manner represented by them, it remains to be examined, how far even that Supposition will justify the Murder which ensued, and it resolves in this, admitting the Assault to have been first made by the Defunct, in which he was afterwards assisted by four more, none of them armed except one, who is said to have had a Pistol, whether in repelling that Force the Pannels did observe the *Moderamen inculpatæ Tutæ*.

It is a Rule of Law universally reserved and established by the Authority of all the Doctors, that no Provocation however outrageous, no Assault upon the Person, or Attack even upon the Life of any Person, will justify the Person so invaded in bereaving the other of his Life, unless in the Case of absolute Necessity; that is, unless he was thereby so *constitutus in Periculo Vitæ*, that no Way remained to preserve his own Life but by destroying his Adversary: and therefore the Roman Law, as the Laws of most Countries, particularly of the neighbouring Nation, and

our own Municipal Law, do require this inevitable Necessity as an absolute Condition, without which it is not lawful for any Person, however unjustly invaded, to bereave the Aggressor of his Life, inasmuch that whoever exceeds that *Moderamen*, is deem'd guilty of actual Murder, and liable to the *Pana Ordinaria*.

The Lawyers in treating upon this Point, particularly Sir George Mackenzie, after establishing the Rule with the Exception of Self-Defence, which is termed *Homicidium Necessarium*, they explain the Way and Manner how that *Moderamen* is exceeded, and the Precautions requisite to be observed to bring it under the Description of *Homicidium Necessarium*. And it resolves in this plain Proposition, that the Person invaded must be reduced to inevitable Necessity, and has no Way left to escape his own Death but by killing the Aggressor: and where that *Moderamen* is exceeded, and the Aggressor unnecessarily killed, it is Murder in the Eye of the Law.

To illustrate this, in a few Instances: if the Aggressor is unarmed, and the Person so invaded armed with mortal Weapons, so as that from an Attack of that Kind he could not possibly be *constitutus in Periculo Vitæ*, if not satisfied with defending himself, he uses these Weapons to destroy the Aggressor, he in so far exceeds the *Moderamen*. And from the same Principles it is most justly established as a general Rule in all Cases, that wherever the Person invaded can by Flight or otherways evade the Necessity of either losing his own Life, or killing the Aggressor, he is obliged to fly, and is not left at Liberty to stand upon his Defence, and to repel the Violence by killing the Invader. And the same Rules do obtain in every other Case that possibly can happen, where the Murderer, however unjustly invaded, can any how escape the Danger without Necessity of killing his Adversary. And surely this *Moderamen* is doubly binding upon us, if our Obligation in that Particular is measured by the Rules of Christian Duty, which obliges us to suffer Injuries patiently, and to return Good for Evil. It seems unnecessary to multiply Authorities to prove the Necessity of this *Moderamen inculpatæ Tutæ*, there is not one Lawyer of whatever Country or Nation, who treats of that Subject, but admits it to be an established Principle, and founded in the Law both of God and Nature: and therefore it remains

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mains only to apply these Principles to the Case in Hand, and to examine how far the Pannels were so *constituti in Periculo*, as made the Death of the Defunct necessary Means of their own Preservation.

And upon this Point it seems to be admitted at all Hands, that as the Defunct, and those in the Boat with him, were not in Quest of the Pannels, but on the contrary were endeavouring by all Means to evade a Rencontre of that Kind, so the Pannels were expressly in Quest of the other Boat, and wanted to make Seizure of the Goods in it; that being the acknowledged Fact is plain; that however the Pannels might have been in their Duty at first in demanding Access into the Boat, or endeavouring to make the Seizure; yet if they found, by Means of an unlawful Resistance, that Admittance could not be had but by Force, and killing those in the other Boat, it was their Duty to have desisted and withdrawn from the Danger, as they were at full Liberty to have done, the Custom-House Boat being under Sail and a-float, and the other Boat either run a ground, or lying on the Water with her Sails taken down. Great Stress is indeed laid upon the alledged actual Invasion by the Defunct, followed by other four, and attempt to disarm the Pannels: but when the Circumstances of that Assault as represented by the Pannels themselves, are seriously considered, as they are false in Fact, so they will appear in no Degree relevant to justify, or even to extenuate the Murder, unless it can be thought, that five Men without Arms, excepting one Pistol, who are all that are said to have boarded the Custom-House Boat, were sufficient to overpower eleven or twelve Persons, who were aboard the Custom-House Boat, five of them armed with charged Guns, cock'd presented, and ready to do Execution, besides three screwed Bayonets: in these Circumstances it is scarce possible to imagine, that the Defunct, who is owned to have first entered into the Boat himself armless, could then by himself, or when seconded by the other four, having amongst them no Arms but one Pistol, conceive it practicable to master the Custom-House Boat, and disarm so many armed Men prepared to receive them with cock'd Guns and screwed Bayonets: and in all Events had their Design been never so palpably intended to master and disarm the Custom-House Boat; yet as those in the Custom-House

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Boat were so far superior both in Number and Arms, as that they could easily have overpowered the Aggressors, without any Necessity of putting them to Death, it must be plain to the Apprehension of every Mortal, that the Pannels did, in every Respect, exceed the *Moderamen inculpatae Tutelae*; that they were *constituti* in no Hazard of any Kind, and therefore under no Necessity to murder that unfortunate Gentleman; and that this Pretext of Self-Defence, under which they are now glad to shelter themselves from the just Vegeance of Law, is an after Device to justify a most barbarous and unnecessary Murder, of which a stronger Instance cannot be given than the Inhumanity, with which that Intention to Murder was prosecuted and compleated, by throwing the Defunct over board into the Sea, after he had got the Mortal Wound in his Breast; and after all, when faintly endeavouring to save himself from drowning, the Pannel *James Long* knocking him down with his Mullet. If this Conduct of the Pannels can be construed in any Court of Justice to have been either justifiable, necessary, or to have kept within the *Moderamen inculpatae Tutelae*, it must be owned it would be hard to find any Case where that *Moderamen* can be exceeded. Where Self Defence is allowed to make the *Homicidium necessarium*, it supposes unlawful Violence upon the Part of the Aggressor, that the Person invaded was thereby *constitutus in Periculo Vitae*, and reduced to the inevitable Necessity either of killing or being killed, none of which Requisites occur in the present Case: no Invasion whatever was made on the Part of the Defunct, or any in Company with him; on the contrary, the Attack was made by the Pannels in a most illegal and violent Manner. But admitting the hystorical Relation of the Matter, as set forth by the Pannels themselves, they neither were nor could be *constituti in Periculo*; they could have retired, and were doubly more than sufficient to have mastered five unarmed Men; and therefore are in no Respect, whether considered as Aggressors, or invaded, under the Description of *Homicidium Necessarium*, but are guilty of a most barbarous Murder; by which the Land being defiled, Justice calls for publick Satisfaction, to the Terror of others to commit the like in Time coming.

To conclude, it will readily occur to the honourable Judge, that the Point in
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Issue is of the outmost Consequence to the Peace and Security of the whole Lieges. Unhappy is the Case of the Subjects of this Realm, if every petty Officer, or Executioner of the Law shall be left at Liberty, when and how oft he apprehends himself unjustly opposed in Execution of what he considers to be the Discharge of his Duty, to make himself Judge in his own Cause, and by his own Authority, or with the Assistance of a Military Power, to force Execution, and in Case of Resistance, to kill and destroy at Pleasure. What dismal Consequences might justly be expected from so dangerous a Precedent, established by Authority of our Sovereign Courts, is easier foreseen than prevented. But as hitherto no Instance does occur from our Records, either of Justiciary or Admiralty, where so barbarous a Murder was justified, and the Murderers allowed to escape the condign Punishment of their Crime, upon the thin Pretexes that they were opposed in going about the Duty of their Office, or were actually invaded, though never *constituti in Periculo Vitæ*, and in repelling of which they so far exceeded in every Particular the *Moderamen inculpatæ Tutelæ*; so it is with Assurance expected from the known Justice of the honourable Judge, that he will lay hold of this publick Opportunity to quiet the Minds and secure the Lives of the Lieges, and so Murder may not walk bare-faced in our Streets; and will therefore sustain the Libel as relevant against both the Pannels, as guilty Actors Art and Part of the actual Murder, and repel the Defence offered, according to Justice, &c.

Information for Thomas M^c Adams, Soldier in the Regiment of Foot, Commanded by Colonel ——— Hamilton, and James Long, Corporal in the said Regiment, Pannels, against His Majesty's Advocate, and Mr Hugh Forbes, Advocate, Procurator Fiscal of the High Court of Admiralty, Pursuers.

The Pannels stand accused before the Honourable Judge of the *High Court of Admiralty*, for the atrocious, and therefore not easily presumable Crime of Murder or Manslaughter; and the Fact libelled against them is, That having conceived a deadly Malice against the deceased *Hugh Frazer Younger of Bellnain*, they upon the fourth of *June*, One Thousand Seven Hundred and Thirty Five

Years, with several other Persons then in Company, armed with Guns, Bayonets, Blunder-Busses, and other mortal and hostile Weapons, came in an open Boat off the Shoar of *Nairn*, up with another Boat wherein the Defunct was; and so soon as their Boat came near the other Boat, they screwed their Bayonets upon their Guns, and cock'd the same which were loaded, and kept them levelled against that Part of the Boat where the Defunct was. And so soon as the Boat came within Reach of the other, they pushed several Times with their screwed Bayonets at the Defunct, who was unarmed and defenceless; altho' the Defunct cried out to them before that Time not to fire, for he and all with him were at their Will: but the Pannels continuing their Attacks upon the Defunct, he had no other Way to escape instant Death, than the catching Hold of the Muzzles of their Guns, and holding them up. And having thus caught Hold of the Guns, the Defunct step'd, or was pull'd into the Boat where the Pannels were, but without any Weapons; and the Struggle occasioned by his still endeavouring to keep the Guns, or the Motion of the Boat, threw the Pannels with the Defunct down in the Boat. At which Time the Pannel, *Thomas M^c Adams*, most feloniously and with a murderous Design unscrewed his Bayonet, and gave therewith the Defunct a Stab in the Breast, of which he died in a few Minutes. And that then the Pannels threw the Defunct into the Sea. And as he was endeavouring to regain his own Boat, *James Long* struck him with his Gun, endeavouring to keep him from getting in.

It is separately libelled under an *at least*, "That *Hugh Frazer* was then and there killed; and that both of the Pannels were Art and Part of the Murder: from all which the Pains of Law are concluded for."

The Pannels have denied this Libel; and as they assuredly know, that they bore no Malice to the Defunct; and that they had upon the unfortunate Occasion, which is the Subject of this Trial, no Intention to kill the Defunct, or any Person whatever; they adhere to this their Denial; and farther say, that if it should be proved, as they believe it will not be, that any Stroke or Blow of any Kind was given by either of them to the Defunct, of which he might afterwards die; whatever may be so proved to have been done,

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was done in just and lawful Self-Defence, and consequently was no Murder.

The *Species Facti*, upon which their Defence is founded, is as follows: That the Pannels are Soldiers in Colonel Hamilton's Regiment, which then lay at Inverness, and were called to be assisting to the Officers of the Customs in the Execution of their Duty; for which Purpose Captain Cawfield, Commanding Officer at Inverness, gave the Pannel, James Long, a written Furlough for himself and two Men more, to be absent upon that Duty six Days. That during the six Days, early in the Morning upon the fourth of June, the Pannels being aboard the Custom-House Boat, they came up with another Boat, in which the Defunct was; and the Officers having called to demand Entrance into the Boat, the Defunct and others aboard thereof threatened, that if they offered to enter, their Brains should be knock'd out. That in a little while the Boat's Crew grew fonder, and agreed to go to Inverness with an Officer. The Reason of which probably was, that there being aboard only a Hoghead, a half Hoghead, and a Box, it might amuse the Officers, and keep them out of the Scent of the larger Cargo. That upon this the Boats parted; and the Custom-House Boat standing towards Cromarty, put in for Refreshment towards Fortrose, where they espied five or six Boats farther down the Firth. And having begun to give them Chase, they came up with the Boat they had formerly spoke with, but found that the Defunct had left her. After which, they overtook the Boat where the Defunct was; that when they came within hearing Distance, those who were aboard the Boat, called to them, *That they had no Call there; and that if they did not leave them, they should repent it.* Words which the Pannels, and those with them, could not fail to interpret by the Threatenings used that Morning, that their Brains should be knock'd out. That upon this the Pannels screwed their Bayonets, and cock'd their Pieces, to be in Readiness; but the Pannel, James Long, gave Orders to the other two, by no Means to fire. That so soon as they came near, the Defunct and others did what they could to stave off the Custom-House Boat with the Tiller of their Boat, and with their Feet. But the Boat having in Spite of their Endeavours laid to her Side, the Defunct jump't into the Custom-House Boat, and was

immediately followed by four others, That the Defunct caught hold of the Muzzle of James Long's Piece; and being desired to let it go, he refused, saying, that they would fire. And that James Long assured him, they had Orders not to fire. That notwithstanding of this, he struggled to keep his Hold. And while this was doing, M'Kinnan, one of his Associates, had knock'd Mr Townsend down with the But-end of a Pistol, and had thrown into the Sea a Blunderbuss which belonged to him; and likewise disarmed another Man, and came up with his cock'd Pistol to the Corporal's Face. That about this Time by M'Kinnan, or some others of the rest, the Corporal was thrown to the Ground; as likewise Thomas M'Adams was thrown to the Ground by the Defunct; and that some how or other in this Scuffle the Defunct received a Wound, and died soon after. *From which Facts*, which the Pannels offer to prove, they apprehend that it is clear, that the Defunct, and those with him, had unlawfully invaded the Boat in which the Pannels were, being but two of ten. That five out of eleven from the other Boat had already entered theirs, and they had Reason to apprehend, that all the rest would follow. And that those who had entered, having begun Hostilities, all those in the Boat were *constituti in Periculo Vita*; and if they repelled Force by Force, they are blameless, whatever was the unlucky Event.

It will easily be seen by the Court, that this Scuffle was occasioned by the pernicious Trade of Smuggling; a Sort of Commerce, which, after having debauched our common People, and rendered too many of them regardless of the Laws, and regardless of their Oaths before Almighty God, drained our Country of her Treasure in Return for the most mischievous, as well as the least necessary Articles of Importation; and after a short precarious Run of a trifling Gain, generally terminated in the Destruction of those concerned in it, has of late Years lost to the King, and the Community the Lives of many good Subjects. Such a Trade one would think, is not to be encouraged at the Expence of the Blood of the innocent Part of the Nation. And therefore the Pannels forbear to retaliate the injurious Expressions thrown out, arraigning the Law, which gives to the Officers of the Revenue the Trust they now enjoy. They, and those who are

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legally called to their Assistance, place their Confidence in this, that they are as strong as the Laws: and they hope never to see the Time, when any Man whatsoever shall be stronger. They humbly conceive, that in the Execution of their Duty, the Law is their Protection; and that they are entitled to a legal Favour, 'till it shall be proved that the Bounds of their Duty were transgressed.

Before enlarging on the general Defence, *Thomas M^cAdams*, Pannel, offered to the Court a separate Consideration; viz. That he had Reason to believe, that the other Pannel would be a material Witness for proving his Defence; and therefore since by the Libel it appears, that *James Long* had not the least Accession to the Homicide, the Prosecutors either should pass from him as a Pannel; otherways he insisted, that *Long* should be first separately tried; and as he is advised, that this Demand is his Right, so he cannot doubt that from the known Equity of his Judge, he shall obtain it, though the Court may be thereby a little longer detained. A Thing which the honourable Judge will think lightly of, in Comparison of the Life of a Man.

To this it was answered for the Prosecutors, that such Demands for dividing Trials are not granted, but where there is a Suspicion, that the Pursuer has libelled against Persons, with a View to deprive the Pannel of material Witnesses. That here no such Thing is or can be suspected. The Cocking the Guns and pushing with the Bayonets is libelled against both the Pannels. It is likewise libelled, that *James Long* struck the Defunct with his Gun, and that the Defunct died either of a Wound or a severe Blow: so that upon the Trial it may appear, that *Long* was the real Murderer. And further that in this Case, there is no Penury of Witnesses. But finally as the Pursuers have libelled Art and Part against *Long*, that by it self is unexceptionably relevant; and they are not bound to open themselves farther.

But it is replied, that tho' the Pannels do not object to the Relevancy of Art and Part, yet they are sure the Pursuers have been so ingenuous, as to libel in the previous Subsumption all the Circumstances, from which they have Reason to believe, that Art and Part can be inferred. The Pannel *Long* does insist upon his total Innocence. And his Denial is more favoured in Law, than the Assertion of the Pursuers Libel. If a Pannel could be de-

prived of this Privilege of having his material Witnesses first tried by an Answer of the Pursuers, that the Pannels appear by the Libel to be intimately conjoined in the Crime; it will be easy for every Pursuer to frame his Libel in such a Manner, as that this Privilege of the Pannels should be inevitably eluded. It is therefore sufficient for the Pannels here to say, that as every Word of the Libel is by them denied; and as there is hitherto no other Evidence of this close Conjunction, but by an Assertion in the Libel; that Assertion cannot be taken for Truth, in Prejudice of either Pannel. But the Pannel, *M^cAdams*, insists, that from the Circumstances of the Libel, though true, *Long's* Accession does not appear. He cocked his Piece, but it is plain, he did not fire, which he would have done, had he had an Intention to kill. He screwed and pushed with his Bayonet; but it is plain, from his having done no Hurt, which he might easily have done, that he had no Intention to do any. It is libelled, that *M^cAdams*, and not he, gave the deadly Wound; and the Libel expressly says, that of that Wound he died, which cannot be contradicted by the posterior Alternative of having possibly died by the Blow. The Circumstance of *Long's* having struck the Defunct on the Sea, the contrary of which is true (for it will be proved, that after the Defunct fell over Board *Long* was very instrumental in taking him up again) is libelled as posterior to the deadly Wound, and cannot even be considered as an Aggravation of it. Wherefore *M^cAdams* insists, that if there is legal Proof against *Long*, he may be convicted separately; and if there is no legal Proof, there is no Reason why he should be deprived of a material Witness.

As to the Penury, every Crime supposes a Penury, which is transacted *intra privates Parietos*. And the Case of a small Boat at Sea, must necessarily suppose a Penury of that Sort. Besides, want of Penury may well be objected to a Pursuer; but a Pannel is much more favoured in his Defence. And farther there is an obvious Ground of Penury in this very Case: for the Honourable Judge will observe, that the pleading turned upon this single Point; whether the Defunct invaded the Boat, or was forced into it. The Pannels stood with their Backs to several of the Crew in their own Boat; and as this is a Thing depending upon a critical
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and nice Observation, consisting in a *Punctum Temporis*, and not to be seen but by such Persons, as were in one precise Situation; there must necessarily be a Penury. It is true, that those in the other Boat could better see this, but the Pannel is not obliged to confine the Proof of his Defence to such Persons, as may be reasonably suspected of Partiality; most if not all of them having been Accomplices of the Defunct's Aggression. For all which Reasons, the Pannel *M Adams* humbly insists upon his Demand and craves the Judgment of the Court upon it.

The Pannels shall not detain the Court with expatiating upon the Relevancy of their Defence. The two Accounts of the Matter are irreconcilably different; and that given in the Libel, has a manifest Air of Affectation. Malice against the Defunct, it is hardly possible to suppose in this Case, seeing he was scarcely known to the Pannel. That the Defunct, had his Intention been to allow Access to the Officers, or barely to defend his own Boat, should think with his two Hands to avoid the Fire of two cock'd Pieces, when by the Pursuers own showing there were two more and a Blunderbuss in the same Boat; and that he should come into the Boat where his Assailants were, on purpose the better to defend himself, is so improbable, that it cannot meet with Belief. Whereas in the Account given by the Pannels there is nothing unlikely, that the Defunct having a considerable Cargo at Stake, and seeing no Way to secure it, if the Officers should once enter his Boat, and no Way to hinder their Entrance but by becoming Master of theirs, should boldly take the Resolution of disarming the other Boat, presuming, it is likely, that he would not find any effectual Resistance: that in this Attempt he was joined by four more, and probably would have been by all the Rest, if that unlucky Accident had not befallen him. Upon this Account the Pannels conceive, that their Defence ought to be sustained and admitted to Proof, notwithstanding of the Pursuers Answers.

Before stating and replying to these Answers, the Pannels beg leave to make two or three short Observations in support of their Defence.

I. That it cannot be denied, that the Defunct and those with him *versabantur in illicito*. They were, as will be proved, at that time endeavouring to run Goods: they denied Access to the Officers, which they had a Right to demand, whatever

Goods might be on Board prohibited, high dutied, uncustomed, suspicious or not. Not only so, but they unlawfully invaded the Custom-House Boat. One of them at least having a charged Pistol, from which the Crew might reasonable conjecture, that the Rest were armed in the same Manner; and they proceeded to disarm and knock down as many as they could.

II. That by the Statute 14th Ch. II. Cap. 2. Officers of his Majesties Customs and there Deputies are authorized to go aboard any Ship or Vessel, to search for and seize all prohibited and uncustomed Goods; as the said Act particularly directs. And a Penalty is thereby inflicted upon every Person, who shall resist, affront, abuse, beat, or wound any Officers in the Execution of their Office; or such as shall act in their Aid or Assistance, either on board any Ship or Vessel, or upon the Land or Water.

Likewise by the 32d Section of the said Statute it is farther enacted, That all Officers belonging to the Admiralty, Captains and Commanders of Ships, Forts, Castles, and Block-houses; as also all Justices of the Peace, Mayors, Sheriffs, Bailiffs, Constables, and Headboroughs, and all the King's Majesty's Officers, Ministers, and Subjects whatsoever, whom it may concern, shall be aiding and assisting to all and every Person or Persons, which are or shall be appointed by His Majesty to manage his Customs, and the Officers of His Majesty's Customs, and their respective Deputies, in the due Execution of all and every Act and Thing in and by this Act required and enjoined; and all such who shall be aiding and assisting unto them in the due Execution thereof, shall be defended, and saved harmless by virtue of this Act.

All which Particulars stand further confirmed by the Writs of Assistance granted to the Officers of His Majesty's Customs; and which very Writs are founded upon the above recited Statutes, and the other subsequent Acts of Parliament which are relative thereto.

III. That where a Number of Men enter by Violence any House or Ship, to disarm the Persons within, or on board, and deprive them of their Liberty, they cannot know what further Violence is intended to them; and therefore at this Attempt the Right of Self-defence begins.

The Replies made by the Pursuers seem to be in Substance as follows: *Primo*, That the Pannels being Souldiers, had nothing

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thing to do there, not even the Captain *Cawfield's* Orders should be proved; because he was not their Commanding Officer. 2^{do}. That as they were only Assistants to the Custom-House Officers, they should have waited for their Orders, before they begun any Attack. 3^{to}. That Officers of the Law, tho' resisted or deforced in the Execution of their Office, are guilty of Murder, if they kill those who resist. And to this Purpose two Cases are quoted in the 1672. and 1674. And that where the Law would indemnify such Homicide, there are special Statutes to that Purpose, out of which Cases it is not allowable to kill. 4^{to}. That particularly in Cases which concern the Revenue, particular Penalties are appointed in case of Resistance; the Consequence of which Resistance is only to incur the Penalty. Lastly, That the Pannels transgressed the *Moderamen inculpatæ Tutelæ*, in so far as this Deed was done before the Pannels were *constituti in periculo vitæ*, or before the Defunct, and those with him were *in actu proximo occidendi*.

As to the first of these, the honourable Judge will see from the Paragraphs of the Statute of *Charles II.* already quoted, that the Assistance of all His Majesty's Subjects is, by Law, to be given to the Officers of the Revenue in the Execution of their Duty; and they are advised, that even without such a Statute, where Powers are committed to any Officer, every Subject, if required, ought in Duty to assist; and tho' he would not transgress any positive Law by with-holding such Assistance, yet if he gives his Assistance, the Thing itself speaks, that he ought to be indemnified. The Execution of the Law is the Business of every Man in the Community, and no Man ought to be discouraged from lending his Help to it. This Case is the less exceptionable, because it is declared by the Statute, that all Subjects whatsoever shall be aiding and assisting to the Officers in the due Execution of their Offices; and all such Aiders and Assisters shall be saved harmless. If the Pannels are not to be considered as Souldiers, still as Subjects, they have the Benefit of this Law.

But, 2^{do}. it is a Branch of the general Orders given to the Army, that they are to be assisting to the Officers of the Revenue in the Execution of their Duty; and it may be justly questioned, if a Soldier, not thereby incurring any Military Pain, could justify himself, if he refused his Assistance. Yet,

3th. *Separatim*, The Pannels offer to prove what they have apprehend to be altogether unnecessary for this very Purpose of assisting the Officers of Customs, that they had six Days Furloff from Captain *Cawfield*, who was habite and repute, and really was the Commanding Officer in *Internefs* at that Time. Much less than this would be sufficient; for verbal Orders, even from an Officer Subordinate, would be a good Warrant in such a Case as this, especially if the Commanding Officer was not in the Way. But tho' verbal Orders could be good, written Furloffs are sometimes granted; that the Party may have them to show, in case, during the Time, they are questioned as Deserters; and when the Time is expired, the Furloffs are delivered up, and commonly neglected or cancelled. In the present Case, the Furloff was given in Writing which is offered to be proved *ex superabundanti*. That Mr *Cawfield* was not Commanding Officer, is a Mistake; he was at that Time the eldest Captain upon the Place.

But farther, for *Thomas M^r Adams* this Objection is no ways relevant; he is a private Centinel, who was there along with his Corporal; and the Corporal being his Superior, had the same Authority as if he had been a General. So that his Case, were the Doctrine laid down to be held as Law, would be unmeasurably hard; tried for Life, if he goes, and any Thing ensues; and if he refuses to go, shot for Disobedience.

As to the second, the Pannels conceive, that it is not incumbent upon them to prove, that what they did was by Orders of the Custom-house Officers. In the Pleading it was said by the Pursuer, that Mr *Townsend*, the Officer, had cock'd his Blunderbus; which surely was Signal sufficient for the Pannels to stand in the same Manner upon their Defence. But as they have laid their Defence singly upon the Law of Nature and Self-preservation, they shall make no further Answer than this, that the Defence of their Lives was a Privilege, which they could not be obliged to suspend, till the Officers of the Customs should allow them to exert it.

As to the third, the Right of Officers to defend themselves, when resisted in the Prosecution of their Duty, it does not exactly touch the present Case; because here was not only Resistance, but Aggression. But the Pannels are advised, that the Principles of Law are upon their Side, even

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even upon that Supposition. If those who execute the Law, are bound to desist whenever they are opposed it is evident, that in a little Time the Strength of the Laws, that must be at an end: for who will venture to execute the Law, if he who resist is safe, and he who executes is liable to be punished as an Aggressor? The Pannels do not say, that he who exceeds his Powers in the Execution of his Office ought not to be severely punished. That he was intrusted by the Law, is an Aggravation of his Offence. But where the Officers of the Law are resisted, there not the Execution of the Law, but the Resistance is the Aggression; and the Opposition to that Aggression is just Self-defence. A Messenger having a Prisoner, is deforced; the Deforcers are liable to pay the Debt, and a Fine besides; this he knows: but he likewise knows, that it is his Privilege to keep his Prisoner, if he can. He is invaded by deadly Weapons; and, in his own Defence, he kills. The Pannels humbly conceive, that by all Laws, by those of God, of Nature, of Nations, and of all other governed Kingdoms, such a Man would be held innocent. And as they are advised, that to assert the contrary, is to dispute Principles, they shall not trouble the Court with enlarging upon it.

The two Cases quoted concern an undue Execution of the Law. In the Case, that of *Beath*, the Boat flying; and the Officers could as little shoot at a flying Boat, as they could fire at a Man, under Caption, flying away. *2do.* The Defence offered for the Pannels was, that they were in Execution of the Law, in consequence of a Proclamation from the Privy Council authorizing the Lieges to hinder the unloading of *Irish* Meal. And the Reply made was, that they were not within the Proclamation: tho' a better Reply would have been, that the Proclamation illegal because the Proclamation only authorizes the hindring of the Importation of *Irish* Meal, and laying it on Land; which was not the Case on hand, the Boat not endeavouring to make Land. And upon this, and other Repls less material, the Defences were repelled. Indeed it appears, that this Murder was, in all its Circumstances, a *very atrocious one*, and had not the least Colour of Self-defence; which is solely the Question here.

As to the other Case of the Souldiers, That was also a most barbarous Murder. Their only Defence was, that by Order

of their Lieutenant, they had gone to poynd the Lady *Frazer's* Lands, for not sending out her Militia; and that they were resisted by the Defunct. The Answer was evident, that the Order of their Lieutenant was against Law; because by the Statute the Warrant of two Commissioners of Supply, not being Officers, was required for such a Poynding: and no such Warrant was sought. No Wonder therefore, that their Defences were repelled upon so evident a Reply.

The Sum of what is here said, amounts to this, That as an Entrance into the Smuggling Boat was by Law due to the Officers, who demanded it, in virtue of an express Statute; they could make good that Entrance as legally, as any Man could break open the Door of his own House: and and whoever opposed him therein, was guilty of an unlawfull Act, which resolves in Aggression; and they might pursue their Duty by repelling that Aggression by Force. But this, as has been and will be said, was not the Case.

As to the fourth Particular, that because of special Penalties enacted by several Statutes, Officers are obliged to abandon their Seizures, and leave the Offenders to the Law; the present Case is widely different: for were that the Case, where Goods are seized, they could not be condemned in Exchequer, if there was Resistance; because to Resistance a certain Penalty is annexed; and that being satisfied, the Goods cannot be forfeited. Whereas indeed, and in Law, the very Attempt to hinder a Seizure subjects to a Penalty, and the Goods may be seized notwithstanding: for at this Rate, Cargos of many thousand Pounds might be smuggled at the Expence only of two or three small Penalties. But the Answer made by the Pannels to this Branch, is, that neither these, nor any other Statutes repeal the general antecedent Law of Self-preservation. And it cannot be presumed by Implication, that any Thing was intended so repugnant to Nature.

As to the last Reply, That the Pannels transgressed the *Moderamen*, &c. they might beg, that every Man might make the Case his own. No Man's Life is at his own Disposal. He neither can take it away himself, nor can part with it to an unlawful Invader, without a Sin. The Slaughter of another Man is not more criminal in the Sight of God, than causelessly abandoning our own Life. So that Self-defence is something more than a Privilege.

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vilege. In the present Case, Five Men of Eleven attacked Ten, being, in Probability, soon to be followed by the other Six. This past at Sea, where none of the Ten could fly, but by jumping over board. It proceeded so far, that one Man was knocked down; he, and several others disarmed and secured, and a Pistol at the Breast of one more. During this *Rixa* one of the Invaders was killed.

It is conceived, that in such a Case, every one of the Assailants is the Enemy of every one of the Assailed. Boat to Boat is to be reckoned as one Man to one Man. Those invaded neither could nor were bound to know the precise Strength of the Assailants. They were permitted to fear and presume the worst from what they saw. One had a Pistol: so might the rest have had, or other more dangerous Weapons. Their fears could not be said to be unjust, and the Invaders were answerable for them.

It is, with Submission, frivolous to pretend, that Ten Men, Five of them armed, ought not to have been afraid of Ten unarmed, and one armed Man; tho' in fact, all who came on board, had at least strong Cudgels: for the Superiority of the Ten over the Eleven consisted in being armed. And if it were to be laid down as a Rule, that their Arms were not to be used, it is plain, that by that Supposition, their Superiority was lost, and the others became the Masters.

The same Answer may serve as to another Part of this Reply, "That the Pannels were not *in Periculo Vitæ constituti*." In such a Case, the Danger of any Man was the Danger of every Man. Long, one of the Pannels, had a cock'd Pistol held to his Breast. M^r Adams, the other, was thrown down to the Bottom of the Boat. So far as to their particular Danger. But they were involved in the general Danger of having their Boat overpowered, and themselves disarmed, and at the Mercy of the Invaders. Those who deprived them of Liberty, might deprive them of Life. And from the known Spite of the Smugglers against the King's Officers, and such who assist them, and the frequent late Examples of Murders of this Sort committed, it was no irrational Fear.

But shall a Man, whose House is invaded, forbear to defend his Possession, because he is not altogether sure, that the Invader will kill him? Surely, such a Doctrine is not to be defended. In a

Ship, or in a House, where the Attack is made in the Day-Time, or in the Night-Time, if it is made with Force, it may be repelled with Force; and the Invader is answerable for the Consequence both in Law and Conscience.

Wherefore the Pannels shall not give any farther Answer to the other Branch, That the Defunct was not in *Actu proximo occidendi*. The contrary is evident, if the Defence is true, both as to their particular Cases, and as to the general Case of all in the Boat; neither shall they labour to answer that Suggestion: That seeing the Custom-House Boat might have shun'd the other Boat, they were the Aggressors by demanding Access: the shortest Answer is best, *That no Man can be an Aggressor, who acts according to Law*.

Upon the whole, this Point is indeed of the greatest Consequence. The Question really is, which is of highest importance, the Life of a Man, or the Subsistence of the Laws? Whether under the seeming Protection of the Law, the Law must be rendered useless? and whether the meanest, or let it be the greatest of the King's Subjects, can set himself in Opposition to Law and be held guiltless? Unhappy were the Case of this Realm, if every Man, in Prosecution of a destructive Trade, shall be left at Liberty whenever he pleases, to oppose himself to the Execution of the Law, and with a lawless unthinking Gang to make himself a Judge in his own Cause, to bereave those assisting to the Law of their Liberties, and put them in Danger of their Lives. And more unhappy still would be the Condition of such as either throw Conscience, or by positive Command give their Assistance to the Law, if every Transgressor should be allowed to invade them, and their Hands should be tied up from defending themselves. Wherefore it is hoped from the known Justice of the Honourable Judge, that he will lay hold of this publick Opportunity to quiet the Minds, and secure the Lives of the Lieges, that they may not lye open to every lawless Invader; and that they may know and rejoice in their Privilege of repelling Force by Force; and that the Honourable Judge will therefore sustain the Defence pleaded for the Pannels, *viz.* That they being aboard of the Custom-House Boat, in order to give their Assistance to the Officers of the Customs in the Execution of their Duty, the Boat

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was forcibly invaded, and entered into by the Defunct, and his Accomplices, and all or some of the Persons therein violently attacked, and that in the said Scuffle the Slaughter mentioned in the Libel ensued; relevant to affoilzie the Pannels.

In Respect whereof, &c.

Thomas M^r Adam Soldier in the Regiment of Foot commanded by Colonel Hamilton, and James Long Corporal in the said Regiment, at present Prisoners in the Tolbooth of Edinburgh.

Both of them indicted and accused at the Instance of Duncan Forbes, Esq; his Majesty's Advocate, and Mr Hugh Forbes, Advocate, Procurator Fiscal of the High Court of Admiralty, for the Crime of Murder in Manner mentioned in the Criminal Letters against them thereant.

Procurators for the Pursuer.

Mr Hugh Forbes, Advocate, Procurator Fiscal.

Mr Alexander Lockhart, Advocate.

Procurator in Defence.

Mr Hugh Dalrymple.

The Libel and Informations for both Parties being read in Presence of the Judge, and in Presence of the Pannels and Assize.

The Judge of Admiralty having considered the Criminal Libel at the Instance of His Majesty's Advocate, and the Procurator Fiscal of Court, against Thomas M^r Adam and James Long, and the Informations given in for the Pursuers and for the Pannels, find the Libel that the Pannels, or either of them, did kill Hugh Frazer of Balnain Younger, or that they, or either of them, were Art and Part of killing the said Hugh Frazer, relevant to infer the Pains of Death and Confiscation of Moveables. And sustains the Defence of Self-Defence proponed by the Pannels, that the killing of the said Hugh Frazer by the Pannels, or either of them, was in the necessary Defence of their Lives; and repels the whole other Defences proponed for the Pannels: and remits them, and either of them, with the Libel and Defence, and the several Qualifications and Circumstances of the Defence, and the Facts alleged on by the

Pursuers for eluding thereof, to the Knowledge of an Assize.

Signed,

James Grabam.

Adjourns the Courts 'till the Morrow at nine o'Clock; and ordains Assize and Witnesses to attend at that Time, under the Penalty of one hundred Marks each; and the Pannels to be carried back to Prison.

Signed,

James Grabam.

Thomas M^r Adam and James Long, Pannels, indicted for Murder as aforesaid.

Procurators for the Pursuers.

Mr Hugh Forbes.

Mr Alexander Lockhart.

In Defence.

Mr Hugh Dalrymple.

A S S I Z E.

John Coutts, Merchant in Edinburgh.

Walter Davidson, Salder there.

Alexander Symmer, Bookfeller.

Andrew Gray, Wig-maker.

Patrick Gordon, Watch-maker.

Capt. David Daes, Shipmaster.

James Hamilton, Wig-maker.

James Steuart, Merchant.

James Tait, Goldsmith.

Thomas Craig, Tobacconist.

Mark Sandilands, Merchant.

Walter Muschet, Vintner.

John Hay, Wig-maker.

Alexander Kincaid, Bookfeller.

William Wright, Baxter.

The above Assize lawfully sworn, and no Objection made.

The Pursuer for proving his Libel adduced the following Witnesses, viz.

Witness I. John M^r Donald, Messenger in Inverness, aged twenty five Years or thereby, married Man, who being solemnly sworn, purged of partial Counsel

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fel, examined, and interrogate, Depones, That on *Tuesday* the third of *June* last, he was sent for by one *Andrew Munro*, Merchant in *Inverness*, who told him he had a Caption to be put in Execution against a Man who was at *Cromarty*, and that if he would go to a Boat which was lying at a little Distance from *Inverness*, he would be therein carried to *Cromarty*; that the Deponent with two Assistants, *M^cKinnan* and *M^cRae*, each of them armed with Swords, and *M^cKinnan* having a Pistol upon his Side, went towards the Boat, in which they found *Hugh Frazer* deceased, and *Duncan Grant*; that they sail'd from thence to *Cromarty*, and *Hugh Frazer* having gone ashoar, and discoursed with some Man unknown to the Deponent, returned and told the Deponent that the Bird was flown, but that he would follow him, if it was to *Caithness*; and thereupon desired of the Deponent, that he with his Assistants would go with the Boat in which he was, down the *Firth* in quest of *James Frazer*, and deliver a Letter addressed to the said *James Frazer*, who would instruct him what he was to do; for that he *Hugh Frazer* designed to follow the Man, against whom the Caption was, to *Caithness*. That the Deponent accordingly went with his Assistants, and having met with *James Frazer*, the said *James* told the Deponent he had no Business with him; so that the Deponent and his two Assistants resolved to go home to *Inverness* by Sea in the same Boat: and accordingly having pursued their Voyage to *Inverness*, they were called upon by *Hugh Frazer*, the deceased, from another Boat, aboard of which the Deponent came, and they sailed together toward the Coast of *Nairn*, when they discovered another Boat coming towards them, which they found to be the King's Boat. That aboard of the King's Boat there were seven Men, besides three Soldiers, in all ten, whereof *Thomas M^cAdam* and *James Long*, Pannels, were two: that so soon as *Hugh Frazer* discovered the King's Boat coming towards them, he called for the Sword the Deponent had along with him, and the other two Swords, and desired them to be laid aside in the Boat betwixt two Hogsheds: that aboard of the Boat in which the Deponent with *Frazer* was, there were in all thirteen Men: that when the two Boats joined, the Pannels had their Muskets, with screwed Bayonets upon them, levelled towards the Place of the Boat where *Hugh Frazer* was: that

Hugh Frazer called out to the Soldiers not to fire, for that he and the others in the Boat with him were at their Will: that nevertheless the Soldiers did threaten to fire; whereupon *Hugh Frazer*, who was on the Side of the Boat, griped the Muzzle of the Muskets which were in the Hands of *M^cAdam* and *Long*, and struggling to have the Pieces out of their Hands, and the said *M^cAdam* and *Long*, on the other Hand, endeavouring to have their Pieces disengaged from Mr *Frazer*'s Grips, Mr *Frazer* was pulled into the King's Boat, and a Swell of the Sea having raised the King's Boat, these three, *Hugh Frazer*, *M^cAdams* and *Long* were thrown into the Bottom of the Boat, and *Frazer* happened to fall above *Long* the Corporal, and *M^cAdams* by the Side of *Long*: that whilst they lay in this Posture, the Corporal *Long* called to *M^cAdams*, *Why don't you stick or stab the Man above me?* and thereupon *M^cAdam* unscrewed his Bayonet from the Muzzle of his Piece, and thrust it into *Hugh Frazer* his Breast. And being interrogate for the Pursuers, he depones, that before *Hugh Frazer* did grip the Muzzles of the Muskets,, the Pannels *Long* and *M^cAdam* did push with their Bayonets at *Frazer*; and the Deponent did not hear any of these who were aboard the King's Boat, desire Admittance into the Boat where Mr *Frazer* and the Deponent were. Depones, That immediately after Mr *Frazer* had received the Wound, he got up from the Place he was lying in the Bottom of the Boat above Corporal *Long*, and *Long* having likewise arisen, he pushed Mr *Frazer* into the Sea over the Boat-side; and as he was falling into the Sea, *Long* struck at him with his Musket with such Violence, that the Ram-rod and Part of the Stock of his Musket was broke; but the Deponent did not see that the Blow aimed at the said *Hugh Frazer* did hit him, nor does he the Deponent know, whether the Ram-rod and Stock of the Musket was broke by a Stroke upon the said *Hugh Frazer*, or upon the Side of the Boat. Depones, That when the three Persons above-named were lying in the Bottom of the Boat, no other Person from the Boat in which the Deponent was, save the said *Hugh Frazer*, had gone aboard of the King's Boat; but that after the said *Hugh Frazer* was in the Sea, there went aboard of the King's Boat the Deponent and his two Assistants, *M^cRae* and *M^cKinnan*, who had his Pistol by his Side, and no other, so far as the Deponent

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Deponent observed; but this Pistol was broke in the Lock, and was not charged: that *M^cKinnan* went up towards one *Mr Townsend*, a Land Waiter, who had a Blunderbuss in his Hand, which *M^cKinnan* griped by the Lock, and while he and *Townsend* were struggling, *Alexander Wright* one of the King's Boatmen, came up to him, and endeavoured to take his Pistol from off *M^cKinnan's* Side; whereupon *M^cKinnan* griped the Pistol than in *Wright's* Hand, by the Muzzle, and having wrested it out of *Wright's* Hand, he gave *Wright* a Blow with it on the Face: that there was one *Thomas Smith* a Boat-man who had a short Fuzee in his Hand, and he came up to the Place in the Boat where *Mr Frazer* had been lying, and *M^cKinnan* at this Time stepping into the King's Boat, came up and hindred him from proceeding any farther. And about this Time the Deponent did observe, that *M^cAdams*, who had given *Mr Frazer* the Wound, had a bloody Bayonet in his Hand; that he went with it to the Side of the Boat, and washed the Bayonet in the Sea, and yet some Blood still remained in the hollow Parts of the three cornered Bayonet. That *Hugh Frazer* deceased was immediately taken out of the Water, and hauled aboard of the Boat in which he had been when the King's Boat came up with him, and having got a little white Wine out of some of the Cask that were aboard of the said Boat, he immediately died, after having got a small Quantity of the white Wine: that the Distance of Time betwixt the said *Frazer's* receiving the Wound and the Time of his Death, was about a Quarter of an Hour: that upon the Deponent's coming aboard the King's Boat, *Walter Denoon* and *Alexander Urquhart*, two of the Boatmen aboard the King's Boat, challenged the Deponent *What he had to do there?* to which the Deponent answered, *That he was betrayed*, having been sent out to execute a Caption, but which Caption the Deponent did never see, nor was he informed, against whom the said Caption was directed: however he was agreed with by *Munro*, in Presence of the said *Hugh Frazer* and *Duncan Grant*, that he was to have a Guinea certain, suppose he staid out but one Night; and that if he staid longer, he was to have two Shillings free for each Day, besides Payment for his Servants and defraying his Charges: and at the Time of making the Bargain, the Deponent was told by *Mr Munro*, *That either Hugh Frazer or Duncan Grant was*

possessed of the Caption: and further adds, that to the Deponent's Observation, there was no other Arms aboard the Boat, in which the Deponent and *Mr Frazer* were, except the three Swords and Pistol abovementioned. *Causa scientiae patet*. And this is the Truth, as he shall Answer to God.

Witness II. Evan Mackinnan, Shoemaker in *Inverness*, aged about thirty five Years, married Man, being solemnly sworn, purged of Malice, partial Counsel, examined, and interrogate, depones, That that he was called by *Mackdonald*, the preceeding Witness, to go along with him, as one of his Assistance, in executing a Caption against a Person in *Cromarty*: but who the Person was, the Deponent knows not, nor did he hear either *Mackdonald* or *Andrew Munro* who employed him, name that Person; but *Andrew Munro* told the Deponent and *Mackdonald*, that the Caption was with *Hugh Frazer* of *Balnain* deceased, or with *Duncan Grant*. That in the Evening of *Tuesday* the third of *June*, *Mackdonald*, the Deponent, and *Mackrae*, another Assistance, went aboard a Boat a small Distance from *Inverness*, and in Company the said *Hugh Frazer* and *Duncan Grant*, sailed towards *Cromarty*; where, when they had arrived, *Hugh Frazer* went ashore, and afterwards returned to the Boat where the Deponent was, and gave to *Mackdonald* a Letter addressed to *James Frazer*, Merchant in *Inverness*; that the next Day being *Wednesday* the fourth of *June*, *Mackdonald*, the Deponent, and *Mackrae* went in another Boat in quest of the said *James Frazer*, whom they found at Sea; and after having delivered the Letter to him, they received another Letter from him, addressed to *Hugh Frazer* deceased, with Orders that they should go home; that in their Return towards *Inverness* by Sea, they were called to by the said *Hugh Frazer* to come aboard of the Boat wherein he was, which they accordingly did; and at this Time there were thirteen Persons aboard the said Boat, after *Mackdonald*, the Deponent, and *Mackrae* had gone into her: that sometime thereafter they discovered a Boat at Sea, which coming nearer them, she appeared to be the King's Boat, aboard of which, besides three Soldiers, there were other seven Persons; that *Corporal Long* and *Thomas M^cAdams*, Pannels, were two of the Soldiers; and the King's Boat coming nearer to the Boat in which the

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Deponent and the others were, *Hugh Frazer* called to them, that they should offer no violence, for that they were willing to allow these in the Custom-house Boat to seize what Goods were aboard: that when the King's Boat was lying aside the other Boat wherein *Hugh Frazer* was, the Soldiers, who had their Muskets cock'd, and Bayonets screwed upon them, pushed at *Hugh Frazer* with the Bayonets, but did him no Harm, and *Hugh Frazer* caught hold of the Musket, which was in the Hand of Corporal *Long*, and of the Musket, which was in the Hand of *Thomas M' Adams*, who endeavouring to disentangle and recover their Muskets, pulled *Hugh Frazer*, who was standing on the Side of his own Boat, into the King's Boat; and no sooner was the said *Hugh Frazer* within the King's Boat, but *Thomas M' Adams* did stick him, having been previously ordered by *Long* the Corporal, while *Frazer* was yet in his own Boat, to stick the said *Frazer*: that the Deponent did not see the Thrust given to *Hugh Frazer* by *M' Adams*. The only Reason why the Deponent says, that *M' Adams* did stick him, was, that he the Deponent did observe a Bayonet all bloody in the Hands of *M' Adams*, and that while Mr *Frazer* was standing upon the Side of his own Boat, as is said, and before he was aboard the King's Boat, the Deponent did see *Thomas M' Adams* unscrew his Bayonet: that some short Time after, *Hugh Frazer* was aboard of the King's Boat, he, and Corporal *Long*, and *Thomas M' Adams* fell to the Bottom of the Boat, the said *Hugh Frazer* above the Corporal and *M' Adams*; and when they had lyen in this Posture for a little while, *Frazer* got up, and then the Corporal and *M' Adams* got up likewise, took hold of *Frazer* and threw him into the Sea; and as he was falling over board, the Deponent saw Corporal *Long* strike the said *Hugh Frazer* with such Violence, that the Ram-rod of the Gun and a Piece of the Stock were broke; and that the Stroke which the Deponent did see Corporal *Long* give to the said *Hugh Frazer*, was upon the said *Hugh Frazer's* Shoulder; that after the said *Hugh Frazer* was in the Sea, the Deponent, who at this Time was still aboard the other Boat, did see a Bayonet bloody in the Hands of the said *M' Adams*, and that he went therewith to the side of the Boat, and washed it in the Sea, but still some Blood remained upon it. That the Deponent

with *Mackdonald* and *Mackrae* having come a board of the King's Boat, they with the Boatmen aboard of the King's Boat helped to pull the said *Hugh Frazer* out of the Sea into the King's Boat, and thereafter they carried him into his own Boat, upon which he the said *Hugh Frazer* immediately died, as the Deponent believes, of the Wound, which he the Deponent saw in the said *Hugh Frazer's* Breast: that no other Person came out of the King's Boat with the Deponent, except *Mackdonald* the Messenger, and *Mackrae* the other Assistant: that the Deponent upon his coming aboard of the King's Boat, went up to Mr *Townsend*, Land Waiter, who had a Blunderbuss in his Hand, which the Deponent took hold of, and took the Priming out of the Pan of the said Blunderbuss, and left it aboard the Boat, but did not throw it into the Sea: and while the Deponent was struggling with *Townsend*, Corporal *Long* and some of the Boatmen dragged the Deponent by the Hair, and one *Alexander Wright* came up to the Deponent, and took the Pistol from off the Deponent's Side, which the Deponent griped and wrested from the said *Wright*, and aimed a Stroke with it at Corporal *Long*, which missed him, but hit *Wright* upon the Cheek: that there were no other Arms aboard the Boat in which the Deponent was, save the three Swords and Pistol above mentioned: and the Deponent did not at any Time hear Admittance demanded into the Boat, in which the Deponent was, by the Officers of the Customs or others aboard the King's Boat. *Causa Scientiæ patet.* And this is the Truth, as he shall answer to God. And declares he cannot write.

Witness III. *William Frazer*, Fisher and Boatman in *Tarbet*, married Man, aged forty five Years; who being solemnly sworn, examined, purged of partial Counsel, and interrogate, depones, That upon *Wednesday*, being the fourth of *June* last, about one a Clock in the Afternoon, the Deponent, who is Master of a Fisher-boat, had aboard the same with him six other Boatmen, *Hugh Frazer* of *Balnain*, deceased, *Duncan Grant*, Merchant, in *Inverness*, and *John Frazer*: that *Mackdonald*, the Messenger, and *Mackinnan* and *Mackrae*, his two Assistants, came up to the Boat in which the Deponent and the others were, and the said *Hugh Frazer* having signified to the Deponent and others aboard, that he was under

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under some Apprehension, that the Officers of the Customs might come up with them, though at that Time they did not see the Custom-house Boat, did desire the said *Mackdonald* and his two Assistants to come aboard of their Boat, which accordingly they did, and dismissed the Boat they had been in; that sometime after they discovered the Custom-house Boat coming up towards them, and then the said *Hugh Frazer* desired the Messenger and his Assistants to hide their Arms, and the rest of the Crew, that they should do no Harm to the Custom-house Officers, in Case they should come up with them; that the King's Boat accordingly came up with them as the Pursuers Boat was touching Ground, and Mr *Frazer* called out to these aboard of her, that they should not fire, because they were in their Will; but the Deponent has since been informed, that these in the Custom-house Boat did not hear the Call; that the Soldiers, who were aboard of the Custom-house Boat, had their Muskets lying upon the Boat-side; and the Deponent did not see any Violence offered by the said Soldiers, either by pushing with their Bayonets, which were screwed in the Muzzles of their Guns, or by cocking and presenting their Firelocks to any that were aboard of the Deponent's Boat; that so soon as the King's Boat came up alongside of the other, the Soldiers, who were then sitting, got to their Feet, and put the Buts of their Muskets to the bottom of the Boat, and rested on their Arms, and the said *Hugh Frazer* standing with one Foot on the Side of the Deponent's Boat, and with the other on the King's Boat, gripped the Muzzle of the Musket which was in Corporal *Long's* Hand, and the other Musket which was in the Hand of *Thomas M^c Adams*, Pannels, who struggling to disengage their Muskets, pulled the said *Hugh Frazer* into the King's Boat; and at the same time, by a Surge or Swell of the Sea, the said *Hugh Frazer*, *Long*, and *M^c Adams* fell to the bottom of the King's Boat; that in the Struggle, the Corporal ordered *M^c Adams* to stick *Frazer*, but the Deponent did not see *M^c Adams* give any Thrust at the said *Hugh Frazer*; that by the Fall of the said three Persons, the said *Hugh Frazer* appeared to be uppermost; and all these having got to their Feet, Corporal *Long* and *M^c Adams*, Pannels, gripped the said *Hugh Frazer* and hove him over board into the Sea; but

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before this, the Corporal struck the said *Hugh Frazer* several Times towards the left Breast, but the Deponent knows not whether his Bayonet was screwed on his Musket when he gave these Strokes or not. Depones, that before these Strokes were given by the Corporal to the said *Hugh Frazer*, and immediately after the said *Hugh Frazer* had got up from above the two Pannels, the Deponent did observe the Breast of his Coat all bloody, and at this Time there was no other Person had gone from the Deponent's Boat aboard the King's Boat but the said *Hugh Frazer*; that while the said Corporal *Long* and *M^c Adams* were throwing the said *Hugh Frazer* into the Sea, he, the Deponent, heard a Man from the King's Boat, calling to these in the Deponent's Boat to come aboard the King's Boat, to make Peace for God's Sake: That upon the Call, *Duncan Grant* went aboard the King's Boat, but *Mackdonald*, *Mackinnan*, and *Mackrae*, his Assistants, were aboard the King's Boat before the Call: that it was the Deponent who hauled *Hugh Frazer* out of the Sea into his own Boat; and that the said *Hugh Frazer* was not taken aboard the King's Boat after he was thrown into the Sea; nor did he see any other Person assisting to take *Hugh Frazer* out of the Sea but *John Frazer*, who is now dead; that a few Minutes after the said *Hugh Frazer* was brought aboard the Deponent's Boat, he expired; and the Deponent having opened his Cloaths, he saw a Wound in the said *Hugh Frazer's* Breast, and that before the said *Hugh Frazer* died from the Time of the Struggle aboard the King's Boat, he did not hear the said *Hugh Frazer* speak, only that when he was expiring; when one said he was gone, he answered, *Ay gone indeed*. That when this happened, there were nine Hogsheads and a broken half Hogshead aboard of the Deponent's Boat; that the half Hogshead contained Wine, but what Liquor was in the Hogsheads, the Deponent knows not; that the fore-said Hogsheads and half Hogshead were taken in at *Tarbatness*, and were intended to be landed upon the *Murray* side of the *Firth*, near where the Boat was, when the King's Boat came up with them. *Causa scientiæ patet*. And this is Truth, as he shall answer to God; and declares he cannot Write.

Witness IV. *Duncan Grant*, Junior, Merchant in *Inverness*, married Man, aged twenty nine Years; who being solemnly sworn,

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sworn, purged of partial Council, examined and interrogate, depones, That in the Afternoon of *Wednesday* the fourth of *June* last, the Deponent being aboard of *William Frazer* Fisherman his Boat, in which *Hugh Frazer* of *Balnain* deceased, likewise was; they discovered the King's Boat coming up to them, and when it was within a Boat's Length or some more, the Deponent observed that there were Soldiers aboard, having Bayonets screwed upon the Muzzles of their Pieces. That *Hugh Frazer* called out to them not to be rash, and when the King's Boat had come alongside of the other Boat, so as that Corporal *Long* was come up to the Place of the other Boat, where *Hugh Frazer* was; he the said Corporal aimed a Thrust at the said *Hugh Frazer*; but the Deponent did not see the Corporal touch *Frazer* with the Thrust. That when the two Boats were thus lying together, the said *Hugh Frazer* got up upon the side of the Boat, but whether he stepped into the King's Boat, or was pulled in by the Soldiers, the Deponent knows not. The said *Hugh Frazer* with one Hand took hold of the Corporal's Firelock, and with the other *M^r Adams's*, and at this Time by a Swell or Surge of the Sea, the said *Hugh Frazer*, Corporal *Long*, and *M^r Adams* were thrown into the bottom of the Boat; that Corporal *Long* immediately got up, and with the Butt of his Musket aimed a Stroke at *Frazer*, as he was lying in the bottom of the Boat; whether he hit him with that Stroke or not, the Deponent knows not. That some Person out of the King's Boat called to the Deponent to come aboard of the Boat, and prevent Mischief; that the Deponent stept aboard, and the Sail of the King's Boat being up, he by lifting of the Sail, discovered, that the said *Hugh Frazer* was in the Sea; that after he was taken out of the Sea into *William Frazer's* Boat, he immediately expired. And about this Time the Deponent saw *M^r Adams's* Bayonet, which was screwed upon his Piece, bloody. That the said *Hugh Frazer's* Cloaths being opened, he saw a Wound in his Breast; but the Deponent does not know how he came by that Wound, having seen no Thrust given him, which might have occasioned it; only that when the Deponent challenged Corporal *Long* for giving the said *Hugh Frazer* the Wound, the Corporal did deny that he had given him any Wound; but said that it was the Man behind him, meaning *M^r Adams*,

who had given the same. That there were some Hogheads and half Hogheads aboard of *William Frazer's* Boat, which by the Bind appeared to be Wine Hogheads; but whether there was Wine in them or not, the Deponent knows not, not having seen any of them pierced. *Causa scientia patet.* And this is Truth, as he shall answer to God.

Witness I. *Daniel Dingwall*, Custom-house Boatman at *Inverness*, married Man, aged forty Years; who being solemnly sworn, examined, and interrogated, and purged of partial Council, depones, That in the Morning of *Wednesday* the fourth of *June* last, about four o'Clock, the King's Boat, aboard which the Deponent was a Sailor, observed another Boat under Sail, to which they made up. And as the King's Boat was drawing near to that other Boat, the Deponent heard some of the Persons from aboard the other Boat call to them on board the King's Boat, to keep off, otherways they should have their Brains beat out; notwithstanding thereof, the King's Boat came up with the other Boat, in which was *Hugh Frazer* of *Balnain* younger, deceased, and *Duncan Grant*; and after some talking betwixt the Persons on board the said two Boats; these who were on board of that Boat, in which *Hugh Frazer* was, agreed to take aboard *John Robertson*, the Tidest-man, in order to take care of a Hoghead, a half Hoghead, and a Box, that was aboard the said Boat. That having sailed for some Time in the *Murray Firth*, towards five o'Clock in the Afternoon, the King's Boat made after another Boat. And when they were drawing near to that other Boat, some Persons aboard of her threatned those in the King's Boat, to do them Mischief, if they dared come nearer. But nevertheless, the King's Boat came upside with the other, in which was the said *Hugh Frazer*, *Mackdonald*, a Messenger, and *Mackinnan*, with others. That upon the two Boats lying Side to Side, the said *Hugh Frazer* stept into the King's Boat, whereupon Corporal *Long*, and *Thomas M^r Adams*, Pannels, who were then sitting in the Stern of the King's Boat, got to their Feet and rested upon their Firelocks, upon which Bayonets were screwed. That the Butts of the said Firelocks were upon the bottom of the Boat, and the said Soldiers were resting with their Hands about the Muzzle. That before this Time, the Deponent did not observe any Violence or Thrusts given

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given by the Soldiers to *Hugh Fraser*, or any other Person; *Townsend* the Land Waiter having previously cautioned the Soldiers, that they should offer no Violence; and so soon as the said *Hugh Fraser* came aboard the King's Boat, he caught hold with one of his Hands of the Muzzle of Corporal *Long's* Firelock rested as above said; and with the other he got hold of *M'Adams's* Firelock; whereupon ensued a Struggle, which occasioned all the three to fall to the bottom of the Boat. That soon after the said three Persons rose, and the said *Hugh Fraser* fell into the Sea, while the Soldiers were standing by him. But he did not observe the said Soldiers, Corporal *Long* or *M'Adams*, take hold of him, or offer him any Violence, which should occasion his falling into the Sea. That immediately after the said *Hugh Fraser* had voluntarily stepped from his own Boat into the King's Boat; and while he was struggling with the Soldiers, before they fell to the bottom of the Boat, he was followed by *Mackinnan*, who pulled out a Pistol that he had hanging by his Side; and having therewith struck Mr *Townsend* the Land Waiter, over the Head, the Deponent and one *Alexander Wright*, and *Thomas Smith* came up to *Townsend's* Assistance, and wrested the Pistol out of *Mackinnan's* Hand; and having opened the Hammer of the Lock, he discovered that it was primed with Powder, which *Alexander Wright* blew out of the Pan; and this happened during the Struggle, betwixt the said *Hugh Fraser*, and the Soldiers. That the Lock of the Pistol was whole and entire, and proper for firing, so far as the Deponent could observe. That sometime thereafter the said *Hugh Fraser* was dragged out of the Sea into the Boat belonging to *William Fraser*; and that after all was quiet in both Boats, he did observe the Bayonet belonging to *Thomas M'Adams*, screwed off his Firelock; but that he did not observe this sooner; neither did he observe any Blood upon the said Bayonet. *Causa scientiæ patet.* And this is Truth, as he shall answer to God; and declares he cannot Write.

Witness II. Brigadier *John Moyle*, Commander in Chief of his Majesty's Forces in *North Britain*, married, and aged — Years, who being solemnly sworn, examined, and interrogate, depones, That he has Orders to command the Troops in this Part of *Great Britain*, that they shall when required, give As-

sistance to the Officers of the Revenue, in the seizing of Goods, which are endeavoured to be run, and protesting the same when seized. That the Deponent has distributed Orders to all the Quarters where the Troops are, that they shall give Assistance in Manner above-mentioned. That when a Soldier upon his Duty is invaded, and an Attempt made to disarm him; if such Soldier should willingly part with his Arms, and not use his utmost Endeavours to have the free Use of them, such Soldier is liable to be prosecuted before a Court Marshal, and to be punished for such Offence with Death, or such other Punishment, as to the Court Marshal shall seem meet. *Causa scientiæ patet.* And this is Truth, as he shall answer to God.

Witness III. Major *Mordecai Abbott*, of the Earl of *Effingham's* Regiment of Foot, married, aged forty two Years, who being solemnly sworn, examined, and interrogate, depones, That when a Soldier is upon any Duty, and being attacked or invaded, he willingly surrenders his Arms; or if he shall not use his utmost Endeavours to keep his Arms, that is deemed as a Mark of Cowardice; and such Soldier is liable to be prosecuted in a Court Marshal, and to be punished with Death, or any other Punishment, as the Circumstances of the Case and Merit of the Offence shall appear to the Court. *Causa scientiæ patet.* And this is Truth, as he shall answer to God.

Witness IV. Major *Edward Pole*, of Lieutenant General *Sabin's* Regiment, aged — — — Years, who being solemnly sworn, examined, and interrogate, depones *conformis precedenti in omnibus.* And this is Truth, as he shall answer to God.

Witness I. *Edward Townsend*, Land Waiter in *Inverness*, married Man, aged forty five Years, who being solemnly sworn, purged of partial Counsel, examined, and interrogate, depones, That in the Evening of *Wednesday* the fourth of *June* last, he on board of the King's Boat, came up with another Boat, belonging to one *William Fraser*; aboard of which last Boat *Hugh Fraser* younger of *Balnain* was; that the Deponent required Access to the Boat, to see what Goods were on Board, but was refused, and threatened by those aboard the Boat, but not by *Hugh Fraser*, if they should attempt to come aboard. That when the Custom-house Boat was lying aside the

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other Boat, *Hugh Frazer* jumped from his own Boat into the Custom-house Boat betwixt the two Pannels, who were then standing resting upon their Firelocks, with screwed Bayonets. That a Struggle ensued betwixt the said *Hugh Frazer*, and the two Soldiers; whereby all three fell to the bottom of the Boat, and during the Struggle, *Erwen Mackinnan* Shoemaker in *Inverness*, jumped into the Custom-house Boat from the others; and having drawn a Pistol from his Side, and cock'd her, he the said *Mackinnan* beat the Deponent with the said Pistol on the Head, whereby he was knocked down. That the Pistol was taken from *Mackinnan* by *Alexander Wright*, and one *Thomas Smith*; that *Urquhart* one of the Boatmen informed the Deponent, that there was Powder in the Pan of the Lock of the Pistol which he threw out; that he knows the said *Hugh Frazer* received a Wound in his Breast, of which he died. But how he came by that Wound, or who gave him it, he knows not. That together with *Mackinnan* came into the King's Boat *Mackdonald* and *Mack Rae*; but the Deponent did not observe them at that Time have any Weapons in their Hands; however *Mackdonald* had a broad Sword aboard of the other Boat, which the Deponent seized, and carried to the Custom-house. *Causa scientia patet.* And this is Truth, as he shall answer to God.

Witness II. William Ogilvy, Tide Surveyor of the Customs at *Inverness*, married Man, aged thirty five Years; who being solemnly sworn, purged of partial Counsel, examined, and interrogate, depones, That upon *Saturday* the last of *May*, the Deponent, who is Tide Surveyor, and had the Command of the King's Boat, did apply to Captain *Cosfield*, of Colonel *Hamilton's* Regiment, who commanded the Forces at *Inverness* for the Time, that the Captain would allow him to have a Corporal and two Soldiers, to go aboard the King's Boat, by reason the Deponent had Information, that a Ship was soon expected upon that Coast, wherein he was apprehensive some Goods might have been run. That Captain *Cosfield* accordingly gave Orders, that Corporal *Long*, and *Thomas M'Adams*, and *John Broad* should wait the Deponent's Orders, and go aboard of the King's Boat, when required. That the Deponent ordered the Corporal and the two Soldiers to go by Land to *Cromarty*; and when

these Men had come there, the Deponent ordered them aboard the King's Boat. *Causa scientia patet.* And this is Truth, as he shall answer to God.

Witness III. John Broad, Soldier in Colonel *Hamilton's* Regiment of Foot, married, aged thirty three Years; who being solemnly sworn, purged of partial Counsel, examined, and interrogate, depones *conformis* to *William Ogilvy*, the preceeding Witness, as to Captain *Cosfield*, and the Orders given by him. And having gone aboard the King's Boat at *Cromarty* with the two Pannels by order of the Tide Surveyor, about four o'Clock in the Morning of the fourth of *June* last, they came up with a Boat, wherein there was a Hoghead, half a Hoghead, and a Box, and four Merchants, whereof *Hugh Frazer* of *Balnain* younger was one. That the Custom-house Officer aboard of the King's Boat being desirous to get aboard of the other Boat, to look after the Goods; he, and they that were aboard with him, were threatned with Mischief, if they should attempt it. But thereafter the Persons aboard the other Boat becoming more pliable, received aboard their Boat *John Robertson* a Tideman, who was left to take care of the Goods; and having returned to *Cromarty*, Mr *Townsend* the Land Waiter, came aboard the King's Boat, and sailed after some other Boats that had come from a Ship lying near the Coast; and after having sailed for some Time, they discovered and made after two Boats, which separated from one another, when they saw the Custom-house Boat approaching; and having come up with one of the Boats, which was making to the Shoar, they saw several Casks aboard, with *Hugh Frazer* younger of *Balnain*, and some other Merchants; the Custom-house Officers were refused Access to that other Boat, and threatned if they should attempt to board her. But the Custom-house Boat having come close to the other Boat, the said *Hugh Frazer* from the other Boat jumped aboard of the King's Boat, while Corporal *Long* and *Thomas M'Adams* were resting upon their Arms towards the Stern of the Boat. That the Deponent, being in the Stern of the King's Boat, was attacked by some Persons from aboard the other Boat; and being obliged to get into that other Boat, for the protecting of his Arms, which the other Persons were endeavouring to wrest from him. That in this Struggle he did not observe what became of *Frazer* and the

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the other two Soldiers. *Causa scientiæ patet.* And this is Truth, as he shall answer to God; and declares he cannot Write.

Witness IV. Thomas Smith Boatman, of the Custom-house Boat at Inverness, married, aged forty Years; who being solemnly sworn, purged of partial Malice, examined, and interrogate, depones, That in the Evening of the fourth of June last, the Deponent aboard of the King's Boat came up with another Boat, near the Shoar, loaded with some Goods, aboard of which was Hugh Fraser of Balnain younger, and Duncan Grant, Merchants. When the Custom-house Officer aboard the King's Boat desired Access to look after the Goods aboard the other Boat, he was threatned with Mischief, if he should attempt to come aboard, by the said Duncan Grant. That Hugh Fraser, when the Custom-house Boat was alongside the other, jumped in betwixt Corporal Long and Thomas M^cAdams, who were standing upon their Arms with the But-end at the bottom of the Boat, and the Muzzles right up, one M^cKinnan Shoemaker in Inverness, with M^cDonald a Messenger, and one M^cRae, came aboard of the King's Boat immediately after the said Mr Fraser and M^cKinnan, during the Struggle Mr Fraser had with the two Soldiers, came up; having a cocked Pistol in his Hand, and therewith knocked down Mr Townsend the Land Waiter, and took from him a Blunderbuss, and threw it into the Sea. The Deponent, and one Alexander Wright, coming up to assist Mr Townsend, wrested the Pistol out of M^cKinnan's Hand; and when the Deponent was disengaged of this Struggle, he saw the People of the other Boat hawling Mr Fraser out of the Sea. *Causa scientiæ patet.* And this is the Truth, as he shall answer to God; and declares he cannot Write.

Witness V. Alexander Wright, one of the Boatmen of the Custom-house Boat at Inverness, married, aged forty Years; who being solemnly sworn, purged of partial Counsel, examined, and interrogate, depones, That the Time and Place libelled before Mr Fraser came into the King's Boat, he heard him ask the Question of the Soldiers, if they were to fire? Upon which the Soldiers said, they would fire. But before this, Access had been demanded by the Custom-house Officer, and was refused; that the Deponent wrested the Pistol out of M^cKinnan's Hand,

with which he had struck down Townsend the Land Waiter, and opened the Lock of the Pistol, and shook it, in order to throw off the priming, if any was there; but whether there was any priming in the Pan of the Pistol, or not, the Deponent does not know. That M^cKinnan took violently a Blunderbuss from Mr Townsend, and threw it into the Sea. Depones, That M^cKinnan was in the King's Boat before Mr Fraser had got any Harm; for that he M^cKinnan immediately followed Mr Fraser into the Boat. *Causa scientiæ patet.* And this is Truth, as he shall answer to God.

The Judge of the High Court of Admiralty ordains the Assize forthwith to inclose, and to return their Verdict against Tomorrow at eleven o'Clock in the Forenoon, and the whole fifteen to attend at that Time, each Person under the Penalty of two hundred Marks; and continues the Diet till that Time, and ordains the Pannels to be carried back to Prison.

The Verdict of the Jury.

Thomas M^cAdams and James Long, Pannels.

The same Day the Jury returned their Verdict, whereof the Tenor follows.

Edinburgh, September 26, 1735.

The Assize having inclosed, did choose John Couls to be their Chancellor, and James Stewart to be their Clerk: And having considered the Libel at the Instance of Duncan Forbes, Esq; his Majesty's Advocate, and Mr Hugh Forbes, Advocate, Procurator Fiscal of the High Court of Admiralty, against Thomas M^cAdams and James Long, Pannels; the Judge of the High Court of Admiralty, his Interloquitor, and Depositions of the Witnesses for proving thereof, and the Defences sustained for the above Pannel, they unanimously find it proven, that the Pannels Thomas M^cAdams and James Long are both guilty, Art and Part, of killing of Hugh Fraser; and by a Plurality of Voices do not find the Defences for the said Pannels proven, that the killing of the said Hugh Fraser was in the necessary Defence of their Lives.

In Witness whereof this presente written by the said James Stewart Clerk, and subscribed Place, Day, Month, and Year above-written.

So Signed,

John Couls, Chancellor.
James Stewart, Clerk.

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The Judge of the High Court of Admiralty continues the Diet for pronouncing Sentence against the Pannels, till Tuesday next the thirtieth current, at two o'Clock in the Afternoon in the ordinary Court Place; and ordains the Pannels to be carried back to Prison.

Their Sentence.

Thomas M^cAdams and James Long, Pannels, indicted and accused as before.

The Judge of the High Court of Admiralty having considered the Verdict of Assize returned against Thomas M^cAdams, Soldier in the Regiment of Foot commanded by Colonel — Hamilton, and James Long, Corporal in the said Regiment, upon the twenty sixth of September current; whereby it is unanimously found proven, that the said Pannels, Thomas M^cAdams and James Long, are both Guilty, Art and Part, of the killing of Hugh Frazer; and by a Plurality of Voices it is not found the Defence sustained for the Pannels proven, viz. That the killing of the said Hugh Frazer was in the necessary Defence of their Lives; the said Judge of the High Court

of Admiralty in respect thereof, by the Mouth of John Dalglish, Dempster, decerns and adjudges the said Thomas M^cAdams and James Long to be taken from the Tolbooth of Edinburgh to the Sands of Leith, within the Flood Mark, upon the third Wednesday of November next, being the nineteenth of the said Month, betwixt the Hours of two and four of the Clock in the Afternoon; and there to be hanged by the Neck on a Gibbet till they be dead. And ordains all their moveable Goods and Gear to be escheat and inbrought to His Majesty's Use, which is pronounced for Doom. Signed
James Graham.

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Before the Day mentioned for their Execution, a Suspension was granted till the eleventh Day of November, and afterward a farther Suspension till the first Day of December following, and on the twentieth of the same Month they received a Reprieve, but were fin'd three hundred Marks each, and obliged to give Bail for six Months, which was complied with, and they were accordingly discharged from the Tolbooth.

Proceedings against the Directors of the South Sea Company in the Year 1720 and 1721, for Breach of Trust, &c. 7 & 8 GEO. I.

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THE Parliament meeting on the eighth of December 1720, three Months after the fall of South Sea Stock from 1000 to 150 per Cent. His Majesty in his Speech from the Throne to both Houses, expressed a great Concern at that unhappy turn of Affairs which had so much affected publick Credit.—And a Motion being afterwards made in the House of Commons for an Address of Thanks for his Majesty's Speech, a certain Member observed, That in Order effectually to remedy the present Misfortunes, it was absolutely necessary to maintain the Honour and Faith of parliamentary Engagements, and to shew the highest Resentment against those who abusing the Trust reposed to them, had given so fatal a Wound to publick Credit, and enriched themselves by the Plunder of the

Nation:—That in his Opinion the Managers of the South Sea Project were not the most Criminal, since there were those above them whose Duty it was to over-look and direct their Proceedings, and who ought to have given a seasonable Check to that extremity of Folly by which South Sea Stock and the Subscriptions were advanced to an extravagant Rate.

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That had those at the Helm interposed in the Affair of the South Sea, as they did in the Case of the two Insurances and other Projects, they would have prevented that dismal Calamity which had befallen the Nation.

This Gentleman was seconded by another Member, who said, as he did not doubt but among the South Sea Directors some might be Innocent and others Criminal;

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minal; so he was of Opinion there were those who were not Directors, no less, if not more Criminal, than the Directors themselves, and who therefore deserved an equal, if not a severer Punishment: Adding, that upon extraordinary Emergencies; where the Laws are deficient, the Legislative Authority may and ought to exert itself; and he hoped a British Parliament would never want a vindictive Power to punish National Crimes. On the twelfth of December it was moved that the South Sea Company should forthwith lay before the House an account of their Proceedings; and notwithstanding this Motion was violently opposed by some Ministers in the House, it was resolved at length without coming to a Division, that the Directors of the South Sea Company do forthwith lay before this House an Account of all their Proceedings, whatsoever relating to an Act passed the last Session of Parliament, entituled, *An Act for enabling the South Sea Company to increase their Capital Stock by redeeming the publick Debts, &c.*

On the fifteenth of December, the Sub-Governor and Deputy-Governor of the South Sea Company presented to the House several Papers, and acquainted the House that the Directors were using all possible Diligence to prepare an Account of all their Proceedings relating to the said Act.

On the twentieth Instant, a Petition of several Proprietors in sundry redeemable Debts, and Lottery Tickets was presented to the House and read, praying, that their Case might be taken into serious Consideration; and that they might be defended in their just Rights against the illegal Proceedings of the South Sea Company, by forcing them to take Stock for their Debts, at a much higher Rate than it would sell for; and admit them to be heard, either by themselves or Council, or grant them such other Relief as should be thought fit; but this Petition was ordered to lye on the Table.

On the 29th, the Sub-Governor and Deputy-Governor of the South Sea Company presented to the House some Books containing an Account of several Matters ordered to be laid before the House, and declared that the rest of their Accounts were preparing with the utmost Expedition.

It was hereupon observed, that the most Villainous Contrivance whereby they have ensnared unwary People, was their taking

in Money Subscriptions at 1000 l. per Cent. and their declaring a Dividend of 30 l. per Cent. at Christmas, and of not less than 50 l. per Cent. per Annum, for twelve Years after; which had imposed upon the Understanding of all such as depended upon the Wisdom and Integrity of the Directors, and occasioned the Ruin of many thousands of Families. It was therefore moved, that the Directors of the South Sea Company do lay before this House the Calculations or Inducements on which they took in the third and fourth Money-Subscriptions at 1000 l. per Cent. and also the Scheme, or Calculations, or other Inducements upon which they grounded the Resolutions of making a Dividend of 30 l. per Cent. at Christmas, and of not less than 50 l. per Cent. per Annum, for twelve Years after.

Then it was moved, That leave be given to bring in a Bill to restrain the Sub-Governor, Deputy-Governor, Directors, Treasurer, Under-Treasurer, Cashier, Secretary, and Accomptant of the South Sea Company, from going out of this Kingdom for the space of one Year, and until the end of the next Session of Parliament; and for discovering their Estates and Effects, and for preventing the Transporting or Alienating the same.

And a certain Member said that in his Opinion, *there were some Men in great Stations, whom, in time he would not be afraid to Name, who were no less Guilty than the Directors.* Mr Secretary Craggs being somewhat nettled at this, said, that he was ready to give Satisfaction to any Man that should Question him either in that House or out of it. This Expression gave no small Offence; and thereupon the Lord Moleworth, said, That he had the Honour to be a Member of that House upwards of thirty Years, and never before now knew any Man bold enough to Challenge the whole House of Commons and all England besides; that for his Part, though past sixty, he would answer whatever he had to say within the House, and hoped there were young Members enough that would not be afraid to look Mr Secretary in the Face out of the House. Upon this Mr Secretary seeing the House in a great ferment, got up again and Modestly said, That by giving Satisfaction, he meant clearing his Conduct.

Then it was resolved *nemine contradicente*, I. That a Committee be appointed to enquire into all the Proceedings relating to

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the Execution of the South Sea Act. II. That the Number of the said Committee be thirteen. III. That the said Committee be chosen by way of Balloting.

Jan. 6. The Sub-Governor and Deputy-Governor of the South Sea Company presented to the House several other Books of Accounts, and on the 10th Instant several more.

Jan. 11. The Names of the thirteen Persons on whom the Majority fell to be a Committee to enquire into all the Proceedings relating to the execution of the South Sea Scheme, were read, consisting of the following Members, (*Viz.*) *Thomas Broderick*, Esq; *Archibald Hutcheson*, Esq; *Sir Joseph Jekyll*, Master of the Rolls, *Edward Wortley*, Esq; *Sir Thomas Pengelly*, Serjeant at Law, *William Clayton*, Esq; *Edward Jeffrey's*, Esq; *Robert Lord Viscount Moleworth*, *Thomas Strangways*, Esq; *William Sloper*, Esq; *Nicholas Lechmere*, Chancellor of the Dutchy, the Honourable General *Rosse*, the Honourable *Dixie Winsor*, Esq;

These Persons, or any five of them were ordered to meet that Afternoon in the Speaker's Chamber, and were empowered to adjourn from time to time, and from place to place, as they should find it convenient, and to report their Proceedings from time to time to the House, and to send for Persons, Papers, and Records, and the several Books and Papers which had been laid before the House by the South Sea Company, were referr'd to the said Committee.

And it was resolv'd that the said Committee should be a Committee of Secrecy.

Jan. 12. A Petition of the Sub-Governor, Deputy-Governor, and Directors of the South Sea Company, was presented to the Commons, and read, praying they might be heard by their Council against the Bill that was brought in to restrain them from going out of the Kingdom, and disposing of their Estates, &c. but the Petition was ordered to lye upon the Table; and a Motion being made by the Master of the Rolls, from the Committee of Secrecy, that *Sir Robert Chaplin*, *Sir Theodore Janssen*, *Francis Eyles*, Esq; and *Jacob Sawbridge*, Esq; four of the Directors of the South Sea Company, and Members of the House, might attend the said Committee and be examined before them in the most solemn manner, the same was ordered accordingly.

Jan. 14. The Committee of Secrecy appointed by the House of Commons,

repair'd in the Morning to the South Sea House, took Possession of it and of all the Books belonging to the several Offices, and afterwards examined severally, the Sub-Governor, the Deputy-Governor, *Sir John Blunt*, and *Mr Grigsby*, Accomptant General, who by reason of his being much indispos'd with the Gout, could not attend. These Examinations lasted till near Ten at Night, and the Secret Committee continued the next Monday and the following Days their Enquiries with the utmost Strictness and unwearied Diligence.

In the mean time a Motion was made in the House of Peers to consider of the State of publick Credit and the Conduct of the Directors of the South Sea Company. And on the 9th of January, their Lordships went into a Grand Committee on that Subject, and in their Debates it was observed, *That the Nation had been plunder'd in a most flagrant manner*, and that those who were appointed by Act of Parliament to over-look the Directors, ought in discharge of that Trust to have prevented their jumping from a Subscription of 400 to 1000, which was the principal Cause of the Misfortunes which ensued. This some Lords of the Treasury seem'd to resent as a Reflection on that Board.

On the 12th of January, the Sub-Governor, Deputy-Governor, about twenty four of the Directors, *Mr Robert Knight*, Treasurer, *Mr Surman*, his Deputy, and some other inferior Officers, attended the House of Lords, and, at the Bar, were sworn to make true Answers to such Questions as should be put to them. After this, the Lords went into a Grand Committee; and in the first Place, examined the Sub-Governor, Deputy-Governor, and Treasurer, separately, and then the Directors; and in the Intervals read several Papers that had been laid before the House. These Examinations lasted till nine at Night, when after a short Debate, their Lordships resolv'd, *That the Sub-Governor and Directors of the South Sea Company had prevaricated with them in giving false Representations of several Matters of Fact; that by lending Money on Stock and Subscriptions, they were Guilty of a notorious Breach of Trust; and that they ought to make Good the Losses which the Company had sustained by their fraudulent Management.* Some Lords propos'd not to involve all the Directors in this Censure, and to distinguish the Innocent

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nocent from the Guilty, but they were told, that the whole Court of Directors were Guilty either in acting, or assenting; upon which those Lords acquiesced in declaring them all Criminal. After this, the Directors being called in again, the Lord Chancellor gave them a severe Reprimand for giving the House such imperfect Accounts, and for having ordered their Clerks to omit several Material things in the Copies that had been laid before the House, commanding them at the same time to lay before the Lords Committees, either the Originals themselves of the several Accounts of their Treasury, or authentick Copies of them.

Jan. 16. Sir John Blunt attended with his Brethren at the House of Lords, who, after they had examined Sir John Fellows, Mr Joye, and Mr Knight, put off the further Examination of that Affair to the Thursday following, when Mr Stroud, Mr Wymanfel, Mr Testard, Mr Locour, Mr Lockier, and some other Brokers, who Negotiated for the South Sea Directors, were ordered to attend. In the mean time their Lordships ordered a Bill to be brought in, to disable the present Sub-Governor, Deputy-Governor, and Directors of the South Sea Company, at, from, and after the respective Times for electing a Sub-Governor and Deputy-Governor, and new Directors of the said Company, to take, hold, or enjoy, any Office, Place, or Employment in the said Company, or in the East India Company, or Bank of England, and from Voting upon Elections in the said Company, which Bill was accordingly brought in and read twice on the 19th.

The same Day the Lords in a grand Committee, examined, severally, the Sub-Governor, Deputy-Governor, and Treasurer of the South Sea Company, as also four of the Brokers, (*viz.*) Mr Stroude, Mr Testard, Mr Locour, a Jew, and his Son; by which three last, their Lordships made large Discoveries, and having sat till seven in the Evening, adjourned to Saturday the 21st.

Jan. 21. The Sub-Governor, Deputy-Governor, and Directors petitioned their Lordships, to be heard by their Council against the Bill for disabling them; but that Petition was rejected, and the Bill read the third time, passed, and sent down to the Commons for their Concurrence.

Then the Lords in a Grand Committee recieved and examined some of the Extracts of the Brokers Books that had been

called for, by which it appeared that large Quantities of South Sea Stock had been transferred to the use of Mr Aislaby, one of the Lords of the Treasury.

Jan. 20. A Supplement of the Directors Accounts was presented to the House of Commons, together with the Inducements on which the Directors of the South Sea Company took in the third and fourth Money Subscriptions at 1000 l. per Cent. with the Inducements for declaring the Dividend of 30 per Cent. at Christmas, and not less than 50 per Cent. per Annum for twelve Years after. During these Examinations, Mr Knight, Treasurer of the South Sea Company, who was entrusted with the principal Secret of this dark Intrigue, either of his own accord, or, as it was shrewdly suspected, at the Suggestion of others thought fit to retire out of the Kingdom; and having on Sunday the 22d absented himself from his House, embarked on Monday Morning in the River, on Board a Vessel that carried him the same Evening to Calais; the same Morning a Porter delivered to Mr Surman the following Letter, directed to the South Sea Directors.

GENTLEMEN,

I write this from a true Sense of the Obligation I am under to make up my Accounts with the Company, and to pay them their full Demand: and though Self-preservation has obliged me to with-draw my self from the Resentment against the Directors and my self, yet I am not conscious to my self of having done any one thing that I can reproach my self for, so far as relates to an honest sincere Intention and Zeal for the Company; but I can, and do, charge myself with a great many Indiscretions, and am (besides the Concern I must be under for leaving my own Family, Friends, &c.) very sensibly touch'd with what you are like to suffer on this Account; and it will be more I am afraid, from your want of Unanimity, which I heartily recommend to you for the future, and, I am sure, wish you as well as you wish yourselves.

I write this at a distance from Home, and under a great deal of Concern, so cannot be so particular as otherwise I would have been. I have herewith sent Mr Surman the Key of my Desk, who knows so much of the State of the Cash, as to be able to make it up. There are a good many Bills of Exchange, and other Payments,

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ments to Write off, and the Weekly Receipts to Write on; there is Cash in the Bank, in the Company's Book, which, together with the Notes taken on the third and fourth Subscriptions, and the Company's Bonds, will make up the Balance, as I do believe: But if it falls short, I have 3000 l. Equivalent Stock, 1600 l. Bank Stock, 2000 l. India and South Sea Stock, over and above what I owe the Company on the Loan, as will be sufficient to make it up with the Money owing on Securities on my particular Account. The Company need not deliver or be answerable for the Subscription Receipts or Stock on the third and fourth Subscriptions, unless these Notes be paid; so the Loss can only be the difference between the Subscriptions and Money in Value; and I think it would be hard for me to bear the Loss, because the Clerks took by far the greatest part of them, as thinking them better than none; and most of them would have been Non-payments if they had been refused; however, I submit this to the Company. I have taken with me but little more than a sufficiency to maintain my self, and the Effects left will more than answer for all Deficiencies; I have bought no Land in Trust for me, nor have I ever conveyed or settled any part of that I had formerly or have bought lately; It remains to answer any Demands on me from the Company or the Legislature. I have withdrawn my self only to avoid the Weight of the Inquiry, which I found too heavy for me; And I am sensible that it would have been impossible for me to have avoided the Appearance and Charge of Prevarication and Perjury, not from my own Intention to do so, but from the largeness and extent of the Inquiry, and nature and largeness of Transactions. I am sure I am a great deal concerned to add to your present Difficulties; though I must say, that I have deserved better Usage than I have had from the Court the last Week: but this I say without any Resentment, otherwise than that it has been an Addition to the Weight I had before upon me. I am prest for Time, so can only assure you, that I am, with all Respect, in Inclination, though not in Power,

Gentlemen,

Your Most Obedient

Humble Servant,

Robert Knight.

Sunday Evening,
Jan. 22d, 1720.1720-21.
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Mr Surman delivered this Letter to the Committee of Secrecy, then sitting at the South Sea House, from whence they immediately repaired to the House of Commons, and in their Name Sir Thomas Pengelly acquainted the House, that they had that Morning received Information, that Mr Robert Knight, Cashier of the South Sea Company, had, on Saturday Night last, (after he had been in part examined by the said Committee) withdrawn himself from his Habitation, and had not been heard of since by his Family. Hereupon it was resolved *Nemine Contradicente*, to present two Addresses to his Majesty, that he would be Graciously pleased, first, immediately to Issue his Royal Proclamation, (with such Reward as his Majesty should think proper) for discovering, apprehending, and detaining Mr Robert Knight, in order that he might be brought to Justice. Secondly, To give Orders that the Ports might be forthwith stopt; and that such effectual Care might be taken of the Coasts, as might prevent the said Mr Knight or any of the Directors, or other Officers of the South Sea Company, from escaping out of this Kingdom. These two Addresses were immediately carried to the King at St James's by Mr Methuen, Comptroller of the Household, who being returned, acquainted the House, by his Majesty's Command, that his Majesty would immediately give the necessary Orders and Directions according to the desires of this House.

In the mean time the Commons ordered their Doors to be locked and the Keys laid on the Table, then General Rosse and some other Members of the secret Committee, acquainted the House, That they had already discovered a Train of the deepest Villany and Fraud that Hell ever contrived to ruin a Nation, which, in due time, they would lay before the House; and that, in the mean while, in order to a further Discovery, they thought it highly necessary to secure the Persons of some of the Directors, and principal South Sea Officers, and to seize their Papers. Hereupon it was ordered, That Mr Edward Wortley, Mr Hutcheson, and Mr Clayton, go immediately and secure all Books and Papers belonging to, or in the Custody of Mr Robert Knight, Mr Robert Surman, and Mr John Grigby. 2. That Mr Robert Surman, Deputy-Cashier, and Mr John Grigby, Accomptant of the South Sea Company, be taken into

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the Custody of the Serjeant at Arms attending this House. 3. That Mr *Roffe* and Mr *Sloper* go immediately and secure all such Books and Papers, belonging to or in the Custody of *Elias Turner*, Sir *George Caswal*, and Company, as they should think necessary to be secured for the publick Service. 4. That Sir *John Blunt*, Bart. Sir *John Lambert*, Bart. two of the Directors, and Sir *John Fellows*, Bart. Sub-Governor of the South Sea Company, be taken into the Custody of the Serjeant at Arms attending this House. Then Mr *Sawbridge*, and Sir *Theodore Janssen*, being come into the House, a Motion was severally made, that they were Guilty of a notorious Breach of Trust, as Directors of the South Sea Company, and thereby occasioned very great Loss to great Numbers of his Majesty's Subjects, and had highly prejudiced the publick Credit; and Mr *Sawbridge*, and Sir *Theodore Janssen*, having severally been heard in their Places, and been withdrawn, the Question was severally put upon the said Motion, and carried in the *Affirmative nemine Contradicente*: After which it was ordered, That the said *Jacob Sawbridge*, and Sir *Theodore Janssen*, be for their said Offence, expelled this House, and taken into the Custody of the Serjeant at Arms: It was also ordered, That the Committee of Secrecy should secure all Papers belonging to, or in the Custody of the Sub-Governor, Directors, or other Officers of the South Sea Company, directed to be taken into Custody. That Sir *Robert Chaplin*, and *Francis Eyles*, Esq; should attend in their Places on Saturday Morning next, and that the Call of the House be farther adjourned till the next Day se'nnight.

Jan. 24. The Lords in a Grand Committee examined Mr *Joye*, Deputy-Governor of the South Sea Company, who made a very ingenious Confession of several important Matters, and communicated to their Lordships the Letter before-mentioned from Mr *Knight* to the Directors, which their Lordships caused to be read. After this the Lords Committees examined severally Mr *Joye*, and the Brokers, and upon a Motion made by Earl *Stanhope*, Sir *William Chapman*, Mr *Holditch*, Mr *Hawes*, Mr *Gibbon*, and Mr *Chester*, five of the South Sea Directors, were ordered to be taken into the Custody of the Gentleman-Usher of the Black Rod.

The Commons at the same time resolved *Nemine Contradicente* to Address

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his Majesty, that he would be Graciously pleased to give Directions to his Ministers residing in the Courts of Foreign Princes and States in Alliance with his Majesty, that they should make their Application that Mr *Robert Knight*, Cashier of the South Sea Company, if he should shelter himself in any of their Dominions, might be surrendered in order to his being brought to Justice, which Directions his Majesty gave accordingly.

On the 25th of January, the Commons received a Message from the Lords, acquainting them, that their Lordships had, for divers weighty Reasons, ordered, Sir *William Chapman*, Bart. *Robert Chester*, *Edward Gibbon*, *Francis Hawes*, and *Richard Holditch*, Esqrs; Directors of the South Sea Company, to be taken into Custody of the Gentleman-Usher of the Black Rod attending their House, and their Papers, and the Papers of Mr *Clark*, the Company's Solicitor, to be seized by the said Gentleman-Usher, and had likewise given Orders to the said Gentleman-Usher, that the said Persons and their Papers, should be from Time to Time, produced in such manner as should be desired by the House of Commons, or by any Committee of that House.

The same Day his Majesty gave the Royal Assent to an Act for Restraining the Sub-Governor, Deputy-Governor, Directors, Treasurer, or Cashier, Deputy-Cashier, and Accomptant of the South Sea Company, from going out of this Kingdom for the space of one Year, and untill the end of the then next Session of Parliament, and for discovering their Estates and Effects, and for preventing the Transporting or Alienating the same. And another Act to disable the present Sub-Governor, Deputy-Governor, and Directors of the South Sea Company, at, from, and after the respective Times for electing a Sub-Governor, Deputy-Governor, and new Directors of the said Company, to take, hold, or enjoy, any Office, Place, or Employment in the said Company, or in the East India Company, or Bank of England, and from Voting upon Elections in the said Companies.

The same Day the Lords in a Grand Committee, examined several of the South Sea Directors, particularly Mr *Astell*, and Sir *Harcourt Master*, who made very ingenious and large Discoveries, and named several Persons, both in the Administration and in the House of Commons, to

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whom large Sums in the South Sea Stock had been given for procuring the passing of the South Sea Act. This Examination lasted about four Hours; after which, upon a Motion made by Earl Stanhope, and seconded by the Lord Viscount Townshend, and Earl Cowper, their Lordships came to the following unanimous Resolution, viz, Resolved by the Lords Spiritual and Temporal in Parliament assembled, that the taking in of Stock, the transferring of Stock belonging to the South Sea Company, or giving Credit for the same, without a valuable Consideration actually paid or sufficiently secured, or the purchasing Stock by any Director or Agent of the South Sea Company, *for the Use or Benefit of any Person in the Administration, or any Member of either House of Parliament, during such time as the late Bill relating to the South Sea Company, was depending last Year in Parliament, was a notorious and most dangerous Corruption.*

After which their Lordships ordered the said Resolution to be forthwith printed and published.

On the 28th of January, Sir Robert Chaplin, and Francis Eyles, Esq; two Members of the House, and Directors of the South Sea Company, attending in their Places, the same Censure was severally past upon them, as four Days before on Mr Sawbridge and Sir Theodore Janssen, and they were both, for their Offence, expelled the House.

On the 31st of January, the Lords in a Grand Committee examined some Brokers, as also Mr Waller, Son-in-Law to Mr Aislabie, and Mr Astel, severally, in relation to a great Quantity of South Sea Stock which appeared to have been transferred to, and negotiated by the said Mr Waller, who pretended not to have kept Minutes of what he had done in Exchange Alley. This some of the Lords looked upon as Prevarication, and after the said Examination had lasted till near seven in the Evening, their Lordships came to the following Resolution, viz. That the Directors of the South Sea Company, having ordered great Quantities of their Stock to be bought for the Service of the said Company, when Stock was at a very high Price, and on pretence of keeping up the Price of the Stock, and at the same time several of the Directors and other Officers belonging to the said Company, having in a clandestine manner sold their own Stocks to the Company,

such Directors and Officers are thereby Guilty of a notorious Fraud and Breach of Trust, and their so doing was one great Cause of the unhappy turn of Affairs, that has so much affected publick Credit.

February 2d. The Lords sent a Message to the Commons, acquainting them, that their Lordships having under their Examination several matters of Importance relating to the South Sea Company, desired that such of the Directors of the said Company, and other Persons, as were in the Custody of the Serjeant at Arms, might be from Time to Time produced before their Lordships, or any Committee of their House, when desired; which was readily complied with: And an Order was thereupon made for the Serjeant at Arms, or his Deputy, to attend the Lords with such of the Directors, or any Officers of the South Sea Company, as were in their Custody, in such manner as was desired by their Lordships.

The same Day the Lords in a Grand Committee examined Mr Hawes, one of the late Directors of the South Sea Company, and some of the Brokers: After which, their Lordships came to the following Resolutions, viz.

I. That the Directors, &c. buying the Midsummer Dividend about the 4th of January 1719-20, and paying 51 l. down, and 3 l. after the Receipt of the said Dividend, was a Fraud to the Persons with whom they contracted.

II. That the giving of a Premium for the refusal of Stock at higher Prices than they knew the Value was, was a fraudulent Artifice to raise the Price of Stock.

III. The promoting the third Subscription at 1000 per Cent. was to answer a particular End, and to cheat the Publick.

IV. That the declaring 30 per Cent. Dividend for the half Year, ending at Christmas, and 50 per Cent. per Annum, for no less than twelve Years, was a Villainous Artifice to delude and defraud his Majesty's good Subjects.

V. That the declaring the Midsummer Dividend to be paid in Stock, when they had Money by them to answer the same, was a notorious Fraud, and was one occasion of the Misfortunes that ensued.

Feb. 4. The Lords designed to have examined Sir John Blunt, the Grand Projector of the South Sea Scheme, who had been summoned to appear before them, and it was generally expected that he would

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would make great Discoveries; but instead of that, he would not so much as be sworn to answer to such Interrogatories as should be put to him, alledging, That he had been already examined before the Secret Committee of the House of Commons, and to such extent of Affairs, that unless he had a Copy of his former Examination, he could not remember every Particular; and as no Man is obliged to accuse himself, he would not run the Hazard of Prevaricating. The Lords very much surprized at this extraordinary Proceeding, but upon a Surmize that Sir John Blunt, might thereby design to break the Harmony that had hitherto been preserved in this nice Affair between these two Houses, their Lordships thought fit not to shew immediately their Indignation against his Obstinacy. After he had been ordered to withdraw, their Lordships debated how they should proceed in this unprecedented Case; and it unluckily fell out, that some Reflections were made against those in Power by a noble Duke, who observed that the Government of the best of Princes, was sometimes made intolerable to their Subjects by ill Ministers; which his Grace illustrated by the Example of *Sejanus*, who had made a Division in the Imperial Family, and rendered the Reign of the Emperor *Claudius* odious to the *Romans*. This Reflection was highly resented by Earl *Stanbope*, who took upon him to Vindicate his Colleagues, and brought in several Instances from the *Roman* History, particularly that of the great Patriot *Brutus*, who in order to assert the Liberty of *Rome*, and free it from Tyrants, sacrificed his own degenerate Son. My Lord *Stanbope*, spoke with so great Vehemence, that finding himself taken suddenly with a violent Head-ach, he went Home and died the next Day.

Feb. 9. The Lord *Molesworth*, from the Committee of Secrecy, acquainted the Commons that they had received Information, that Mr *Robert Knight*, late Cashier of the South Sea Company, was taken; and was in Custody in the Castle of *Antwerp*: Hereupon his Lordship moved, and it was resolved, *Nemine Contradicente*, that an humble Address be presented to his Majesty, to return his Majesty the Thanks of this House, for his great Goodness in giving such effectual Directions to his Ministers abroad for securing Mr *Robert Knight*, pursuant to the Address of this House; and Humbly

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to desire, that his Majesty would be Graciously pleased to give Orders to his Ministers residing in the Courts of *Vienna* and *Brussels* to make the proper Applications, and use the most effectual Instances that the Person of the said Mr *Robert Knight*, together with his Papers and Effects, might be secured and delivered up to such Persons as his Majesty should appoint to receive the same; and that his Majesty would be Graciously pleased to give Orders, upon the said Mr *Robert Knight's* being brought into *Great Britain*, that he be forthwith delivered and put into the Custody of the Serjeant at Arms attending this House. This Address was immediately sent to the King by Mr *Mesburen*, Comptroller of the Household, who being soon after returned, acquainted the House that his Majesty had commanded him to acquaint the House, that he would give the necessary Orders and Directions according to the desire of this House, and that in case his Majesty's Endeavours to have him secured and brought over into *Great Britain* should succeed, his Majesty would forthwith cause him to be delivered into the Custody of the Serjeant at Arms attending this House.

The same Day the Earl of *Sunderland*, having acquainted the House of Peers in what manner Mr *Knight* was apprehended and secured, a Motion was made to address his Majesty to order his Ministers abroad to use the most effectual Instances to have him delivered up and sent over. Hereupon a certain Lord represented, that the Person, who, at present, took care of his Majesty's Affairs at *Brussels*, being a Foreigner, it were therefore proper, for the House either to send a Messenger of their own, or to desire his Majesty to send a special Messenger to bring over Mr *Knight*, who was so material an Evidence in the present Enquiry into the villainous Frauds committed by the late South Sea Directors and their Abettors. To which it was replied, that either of these would be so far disrespectful as it would imply a distrust of his Majesty's Care in this Affair, which they had all the Reason in the World to be satisfied in: That upon the Application made to his Majesty for using his Endeavours to get Mr *Knight* secured, twelve Expresses were immediately dispatched for that purpose to his Majesty's Ministers abroad; and that these Orders had been executed with such Punctuality and Diligence, by the Secretary of his Majesty's Resident at *Brussels*, that Mr *Knight* was

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was actually apprehended and in safe Custody: Concluding that it became the Wisdom of that *August* Assembly to express their gratefull Acknowledgments to his Majesty for his past Care, and to rely on his future Endeavours for getting Mr *Knight* delivered up and sent over. This being agreed to, an Address much to the same Effect with that of the Commons, was presented to his Majesty; who appointed Colonel *Cburchill* to go to the Court of *Vienna*, to make Instances for the delivering up of Mr *Knight*, an Account of whose Apprehension was published in the *London Gazette* of Saturday the 11th of *February*, as follows.

His Majesty's Orders having been dispatched by several Messengers to his Ministers residing in the Courts of foreign Princes and States in Alliance with his Majesty, for their making immediate Application, if Mr *Robert Knight*, Cashier of the South Sea Company, should shelter himself in any of their Dominions, to get him seized and surrendered, in order to his being brought to Justice: And Mr *Gaudot*, Secretary to Mr *Leathes*, his Majesty's Resident at *Brussels*, who in the absence of the Resident has the Care of his Majesty's Affairs there, having Information that the said Mr *Knight*, had passed through *Brussels* and was going towards *Louvain*, did, pursuant to those his Majesty's Orders apply to the Marquis *De Prie*, who out of Regard to a Request, made to him in his Majesty's Name, readily appointed a Major named *Branden*, an Adjutant, with sixteen Dragoons, and a Quarter-Master, to attend Mr *Gaudot*, and follow such Directions as he should give. Hereupon Mr *Gaudot* leaving some Persons to watch and follow Mr *Knight's* Son, whom he had left at *Brussels*, but was to come after him, set out on *Thursday* the 2d Instant, O. S. at three o'Clock in the Morning, accompanied by the Major, with the Detachment of Dragoons, for *Louvain*, where they arrived just after the opening of the Gates: To avoid raising a talk in the Town by entering it with the Dragoons, Mr *Gaudot* and the Major left them without the Gate, and going to the Burgo-master, got Information by his Assistance, that two *English* Gentlemen who had lodged at an Inn the Night before, went away that Morning at the opening of the Gates, and had taken the Road to *Tirlemont*. Upon this Information Mr *Gaudot* and the Major

took fresh Horses, and ordering only four of the best mounted Dragoons to go with them, bidding the rest follow as they could, made the best of their way to *Tirlemont*, where they put into the same Inn at which the two said Gentlemen had stopt, of which they had Intelligence by a Postillon, which they had sent before to make Enquiry. Mr *Gaudot* entering the Inn met Mr *Knight*, who with his Companion instantly yielded themselves Prisoners to him and the Major. Soon after Mr *Knight's* Son and another *English* Gentleman arrived at *Tirlemont*, who being also seized, they were all four carried back to *Brussels*: Arriving about one o'Clock in the Morning the 3d Instant, at the outer Barrier of that Place; whether they had dispatched Advice of their Success, they found there a Coach with four Horses and a Detachment of twelve Dragoons to relieve the other, and a Letter from Count *Wrangel*, with a Warrant inclosed from the Marquis *De Prie*, ordering Major *Branden* to carry Mr *Knight* to the Citadel of *Antwerp* without passing through *Brussels*. Mr *Knight's* Son went with his Father to the Citadel; Mr *Gaudot* having at the Marquis *De Prie's* desire waited on him as soon as he got to *Brussels* to acquaint him with his Proceedings, went at three in the Evening to *Antwerp*, the Marquis having ordered that none should be admitted to speak to the Prisoner except the Gentleman who was taken with him, and he only in Mr *Gaudot's* Presence and Hearing. Mr *Knight* is kept in safe Custody by an Officer who lyes in the same Room with him, and four Sentinels without, and as many within the House, and is not allowed the use of Pen, Ink and Paper.

On the 7th of *February*, the Lords examined Sir *John Fellows*, late Sub-Governor, Mr *Joye*, Deputy-Governor, and Sir *Robert Chaplin*, one of the late Directors of the South Sea Company; and voted Sir *John Blunt* Guilty of a high Contempt of the Judicature of the House of Lords, for refusing to be sworn and examined before their Lordships.

February 8th, their Lordships in a Grand Committee examined some others of the late South Sea Directors, particularly Mr *Gibbon* and Mr *Holditch*: And on the 10th of *February*, the five late Directors who had been committed to the Custody of the Usher of the Black-Rod, were, upon their humble Petition suggesting, that they had given Security as the late

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late Act of Parliament directs, ordered to be discharged paying their Fees. The same Day, and the next, some other Directors were examined by the Lords, in relation to Stock given to those in the Administration, and to Members of Parliament while the South Sea was depending, but little or nothing could be got from them.

February 13. A Petition of the South Sea Company was presented to the House and read, praying the Consideration of the House, in relation to the Payments of the several Sums of Money, which by the Act of Parliament of the last Session, the said Company are subject, and liable to, for the use of the Publick, at the Times and in the Manner by the said Act directed, and praying such Relief as to the House should seem meet. Hereupon a Motion was made that the said Petition be rejected, but the said Motion being opposed by the Court Party; the Question being put thereupon, was carried in the Negative, by a Majority of 253 Voices against 166; however the said Petition was ordered to lye on the Table.

February 15. Mr Comptroller delivered to the Commons the following Message from his Majesty.

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His Majesty having received a Petition from the Court of Directors of the South Sea Company, relating to the Payment of the Money due to the publick from the said Company, has thought fit to transmit the said Petition to the House of Commons, and at the same time, to acquaint them, that his Majesty has no Objection to the Parliament's giving to the South Sea Company such Ease and Relief in the times of making the Payments due to the Publick, as the House of Commons shall think fit and reasonable.

The next Day the Report of the Committee of Secrecy was read, wherein it appeared among other things, that the following Parcels of South Sea Stock were taken in for the under-written Persons,

For the Earl of Sunderland, at } 50,000
the Request of James Craggs, } at 150
Sen. } to 180
For the Dutcheſs of K—l 10,000
For the Counteſs of P—n 10,000

For the two Nieces of the former 10,000
For James Craggs, Sen. Esq; 30,000
For Charles Stanhope, Esq; 10,000
For the Sword-Blade Company 50,000

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The Difference of which last Parcel amounting to 250,000 l. was supposed to be paid to Mr Charles Stanhope, by Sir George Caswall, and Company, but that Sir George ordered the Name Stanhope to be partly erased out of the Book, and made Stangape; it also appeared by this Report that Mr Aislaby, late Chancellor of the Exchequer, had great Quantities of South Sea Stock given him, but that his Affairs were chiefly managed by Mr Waller, his Son-in-Law, and Mr Weymondſeld, a Broker: That Mr Aislaby's last Account with Turner, Caswall, and Company, was 794,451 l. that 68,000 l. part thereof, was paid in Cash to Mr Waller; as was also 44,600 l. more by one Bond of Caswall, and Company, and 33,000 l. by another Bond of Caswall, and Company, was paid to one Weddall; that Mr Aislaby, as a Commissioner of the Treasury, had 4000 l. in the first Money-Subscription; but that as soon as it came to bear an advance of about 40 per Cent. he had 20,000 l. more; that no Warrant is found for making the second Money-Subscription more than one Million; but that afterwards some of the leading Directors, by the advice of Mr Aislaby, made it 500,000 more: That the third Money-Subscription at 1000 l. was promoted by Mr Aislaby, whose List amounted to 70,000 l. the Earl of S—d's List to 160,000 l. Mr Secretary Craggs's List to 659,000 l. and Mr Charles Stanhope's to 47,000 l. That Mr Aislaby likewise advised the lending Money Stock; and that the Directors sold part of the Pawn'd Stock at high Prices; but that of 2,800,000 l. that should have been transferred by Mr Knight, to four of the Directors, there appeared to be but 2,400,000 l. so that there was 400,000 l. Stock wanting. In the close of the Report the Committee of Secrecy took notice, that in the Course of their Enquiry they found mention made of great Quantities of South Sea Stock taken in for Members of both Houses of Parliament, but that the Committee did not think fit to name the Persons, nor to proceed farther in an Affair of so nice a Nature, without the Directions of the House.

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On the 17th of *February*, the Commons in a Committee of the whole House, considered of the King's Message relating to the South Sea Company's Petition, and came to the following Resolution, *viz.* I. That the Payment of the Sum of four Millions one Hundred fifty six Thousand three Hundred and six Pounds four Shillings and eleven Pence, due to the Publick by the South Sea Company, by Virtue of the Act of the last Session of Parliament, and made payable in one Year, by four Equal and Quarterly Payments, the first Payment commencing the 25th Day of *March* 1721, be farther delayed and postpon'd to the Year 1722, and that farther Provision be made for the more effectual Payment thereof. II. That the Repayment of the Sum of one Million which was lent to the South Sea Company on or about the 7th of *June* 1720, be postpon'd to the 7th Day of *June* 1722.

Feb. 18. These Resolutions were reported by Mr *Farrer*, and agreed to by the House; and it was thereupon ordered, That it be an Instruction to the Committee of the whole House, to whom the ingrafting Bill was committed, that they have Power to receive a Clause or Clauses pursuant to the said Resolutions. After this, the Serjeant at Arms was ordered to summons the Members in the Places adjacent to attend the Service of the House, who then proceeded to take the Report from the Committee of Secrecy into Consideration; and after some Speeches on the several parts of it, the House came unanimously to the several following Resolutions.

I. That the late Sub-Governor, Deputy-Governor, and Directors of the South Sea Company, and their Officers, and their Aiders and Abettors, in lending out the Company's Money upon Stock and Subscriptions, without taking sufficient Security for Repayment thereof, have been Guilty of a notorious Breach of Trust, and have thereby occasioned great Loss to the Company, for which they ought to make Satisfaction out of their own Estates.

II. That the selling or disposing of Stock or Subscriptions transferred, deposited as a Security for the Repayment of the Money so lent, was a notorious Breach of the Trust reposed in the said Sub-Governor, Deputy-Governor, Directors, and their Officers, and a Fraud on the Proprietors, in order to enrich themselves,

for which they ought to make Satisfaction out of their own Estates.

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III. That the taking in or holding of Stock by the South Sea Company, for the Benefit of any Member of either House of Parliament, or Person concerned in the Administration (during the time that the Company's Proposals, or the Bill thereto relating, were depending in Parliament) without any valuable Consideration paid, or sufficient Security given for the Acceptance of or Payment for such Stock; and the Company's paying or allowing such Persons the difference arising by the advanced Price of the Stocks, were corrupt, infamous, and dangerous Practices, highly reflecting on the Honour and Justice of Parliaments, and destructive of the Interests of his Majesty's Government.

IV. That any of the Directors of the South Sea Company selling their own Stock at high Prices to the Company or others, at the same time that they gave Orders for buying Stock upon account of the Company, under pretence of keeping up the nominal Value of the said Stock, was a scandalous Practice, tending to enrich themselves, to the great Loss and Detriment of the Company, and of others his Majesty's Subjects, for which they ought to make Satisfaction out of their own Estates.

V. That the declaring a Dividend of 30 per Cent. for *Christmas* last, and not less than 50 per Cent. per Annum, for not less than twelve Years after, was an infamous Contrivance to give his Majesty's Subjects false Notions of the Value of the said Stock, that the late Directors might more easily dispose of their own Stock at exorbitant Prices.

VI. That the setting the Stock of the South Sea Company to Sale by Subscriptions at high Prices above the intrinsic Value of the same, by the late Sub-Governor, Deputy-Governor, and Directors of the said Company, was a gross and notorious Fraud, and has been one great Cause of the sinking of the publick Credit and bringing upon the Nation the Distress it at present Labours under.

VII. That the advising the late Sub-Governor, Deputy-Governor, and Directors of the South Sea Company, to Set the Stock of the said Company, to sale by Subscriptions at high and extravagant Prices, or to declare the high and extravagant Dividends for *Christmas* last, and twelve Years after, by any Persons in the Administration, was a notorious Breach

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of the Trust reposed in them to the prejudice of his Majesty's Government, and the Interest of this Kingdom. Then the Considerations of the said Report was adjourned to 21, when, after some Time spent therein, the Commons came to the farther unanimous Resolutions that follows, viz.

VIII. That the Entry in the Cash-Book of the South Sea Company of five Hundred seventy four Thousands five Hundred Pounds Stock, pretended to be sold for one Million two Hundred thirteen Thousand five Hundred seventy five Pounds, between the 4th of February 1719, and the 12th of April following, was contrived with a Design to conceal the Names of Persons for whose Benefit Stock was taken in by the said Company.

IX. That every Person for whom Stock was taken in or held, such Stock being part of the five Hundred seventy four Thousand five Hundred Pounds, pretended to be sold by the South Sea Company, from the 4th Day of February 1719, to the 12th Day of April following, without Money paid or sufficient Security given for the Acceptance of, and payment for such Stock, be obliged to pay to the said Company all such Sums of Money as have been received by way of difference, or otherwise, for such Stock taken in or held as aforesaid.

X. That the Addition of two Hundred fifty Thousand Pounds to the first Money-Subscription, after it had been declared to have been opened for two Millions, and the Addition five of hundred Thousand Pounds, to the second Money-Subscription after it had been declared to be opened for one Million, were fraudulently contrived to give corrupt advantages to particular Persons, and were injurious to publick Credit.

XI. That a Bill be brought in for the relief of the unhappy Sufferers in the South Sea Company.

February 21. A Petition of Robert Surman, Gent. late Deputy-Cashier to the South Sea Company, (in Custody of the Serjeant at Arms) was presented to the House and read, praying, that he might be discharged out of Custody, paying his Fees, (he having given Security pursuant to the late Act of Parliament) to the end he might prepare the Accounts and Inventories of his Estate, as the said Act directs; which Petition was ordered to be taken into Consideration the next Morning.

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Feb. 22. Three Petitions of Sir Theodore Janssen, Knt. and Bart. Sir John Fellows, Bart. and Sir John Lambert, Bart. in Custody of the Serjeant at Arms were severally presented to the House, and read, praying to be discharged out of Custody, upon the same Allegations contained in the Petition of Mr Surman, which three Petitions were also ordered to be taken into Consideration on the 22d, when they were all four ordered to be discharged paying their Fees, as was also Jacob Sawbridge, Esq; who petitioned that very Day, Feb. 22.

Feb. 25. Mr Broderick made a further Report from the secret Committee which related chiefly to great Quantities of Stock and Subscriptions which appeared to have been taken in for Mr Aislaby, late Chancellor of the Exchequer, and Charles Stanbope, Esq; one of the Secretaries of the Treasury, and both Members of the House, who thereupon insisted on their Innocence, and pressed that a Day might be appointed to examine that matter, that they might have an Opportunity to clear themselves. Mr Broderick represented thereupon, that though the secret Committee had a great deal of Evidence to support the Charge against those two Gentlemen, yet they wanted a material Witness, viz. Mr Knight, late Treasurer of the South Sea Company, who was in safe Custody, and in all Probability would soon be brought over; and therefore the Committee hoped that the House would not hurry an Affair of so great Importance. Mr Stanbope urging how heavy an Imputation of so heinous a Nature lies upon a Man who knows himself to be intirely Innocent, which, he said, was his Case; and renewing his Instances for examining into it; the Tuesday following being the last Day of February, was appointed for that purpose; and it was ordered, That Mr Charles Joye, Mr Edward Gibbon, Mr Robert Chester, Mr Richard Holditch, Sir John Blunt, Bart. Mr Robert Surman, Mr Jacob Sawbridge, Mr Elias Turner, Mr Henry Blunt, Mr Robinson Knight, Mr Daniel Watkins, Mr Richard Fenton, Mr John Maddy, and Mr John Mount, should on that Day attend the House. After this the House considered farther of the Report from the Committee of Secrecy, and Notice being taken of a Fraud committed in relation to the two last Money-Subscriptions, it was resolved *Nemine Contradicente*, that

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the supposed Deficiency of six hundred Thousand Pounds upon the third Money-Subscription, and of one hundred thousand Pounds upon the fourth Money-Subscription, taken by the South Sea Company; ought to be made good and answered to the Company, by the late Sub-Governor, Deputy-Governor, Directors, and Cashier, the said Subscriptions being declared at a general Court of the said Company, holden the eighth Day of September 1720, to have been completed at five Millions, and at two Millions five hundred Thousand Pounds respectively, and accordingly entered and passed to the Credit of the Company in their Cash-Book. Then it was ordered, That it be an Instruction to the Gentlemen who were to prepare and bring in the Bill for the relief of the unhappy Sufferers in the South Sea Company, that they do prepare and bring in a Clause or Clauses pursuant to the said Resolution; as also, that it be an Instruction to the Committee of Secrecy, that they proceed in the farther Examination of Particulars of the five Hundred seventy four Thousand five Hundred Pounds South Sea Stock, supposed to be disposed of between the fourth of February 1719, and the 12th of April following. On the 27th of February, Sir John Fellows, Bart. was ordered to attend the House the next Morning, as was also the proper Officer of the Bank of England, with the Book or Books wherein the Payment of the South Sea Company's Cash-Draughts were entered, from the 1st of February 1719, to the 1st of October 1720, together with the Name or Names of the Officer or Officers who paid the same; and that the said Officer or Officers do attend this House at the same time. Then a Message was sent to the Lords, to desire that Edmond Waller, Esq; in Custody of the Gentleman-Usher of the Black Rod, might from time to time be produced before the House of Commons, or any Committee of that House when desired, which the Lords readily complied with.

February 28. The Commons resumed the farther Consideration of the Report from the Committee of Secrecy, some parts of which relating to Charles Stanhope, Esq; were read; after which the Examination of Sir John Blunt, Mr Holditch, Jacob Sawbridge, Sen. Esq; Mr Henry Blunt, and others, before the Committee of Secrecy were severally read; and they were severally called in and exa-

mined; as were also Mr Elias Turner, and others. The Charge against Mr Stanhope consisted of two Articles, 1. That 10000 *l.* South Sea Stock was taken in for his Benefit, by Mr Knight, without any valuable Consideration; and that the Difference arising by the advanced Price thereof was paid him out of the Cash of the South Sea Company. 2. That Turner and Company, had bought 50000 *l.* Stock at a low Price of the South Sea Company, in the Name and for the Benefit of Mr Stanhope, the Difference of the advanced Price whereof amounting to 250000 *l.* had been paid to the said Charles Stanhope, Esq; by Sir George Caswell and Company. To prove these Articles, the secret Committee caused the Examinations before-mentioned, and the Persons above-named to be examined, but some of the latter rather weakened than corroborated their former Depositions; Sir John Blunt, in particular owned as to the first Article, that Mr Knight had shewed him a Letter, which he told him was signed by Mr Stanhope, desiring him to take 10000 *l.* Stock for him; but that he did not know whether that Letter was genuine, nor what was become of it: And as for the 50000 *l.* Stock transferred to the Sword-Blade Company in Mr Stanhope's Name, Mr Sawbridge and Mr Turner had the Modesty and good Nature to take the whole Iniquity of the Juggle upon themselves, and in the Face of the Commons of Great Britain to own that they had made use of Mr Stanhope's Name, without his Privy or Consent. These Examinations, together with the Animadversions of the Members of the secret Committee thereupon lasted till eight o'Clock in the Evening, after which Mr Stanhope was heard in his Place. As to the first Article, he said, That for some Years past he had lodged all the Money he was Master of in Mr Knight's Hands, and whatever Stock Mr Knight had taken in for him, he had paid a valuable Consideration for it; and as to the second, that he could not answer for what had been done without his Consent. When he had done speaking, and was withdrawn, a Motion being made and Question being put, that it appears to this House, that during the Time that the Proposal made by the South Sea Company, and the Bill relating thereto were depending in this House, 100000 *l.* Stock was taken in or held by Mr Knight, late Cashier of the said Company, for the Benefit

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Benefit of *Charles Stanbope*, Esq; one of the Secretaries of the Treasury, and a Member of this House, without any valuable Consideration paid, or Security given for the Acceptance of, or Payment for the said Stock; and that the Difference arising by the advanced Price thereof was paid, to the said *Charles Stanbope*, Esq; out of the Cash of the South Sea Company, it was carried in the Negative by a Majority only of three Voices, viz. 180 against 177, which occasioned various Reflections; however it was thought necessary to lay a Censure on the Sword-Blade Company, and therefore it was resolved that the making use of the Name of *Charles Stanbope*, Esq; a Member of this House, in the Entries of the Books of *Turner and Company*, in order to conceal 50000*l.* Stock supposed to be bought of the South Sea Company, was an unjustifiable and unwarrantable Practice.

March 3. Sir *George Caswell* attending in his Place, three Examinations of *Daniel Watkins*, Clerk to *Elias Turner*, *Jacob Sawbridge*, Esq; and Company, taken before the Committee of Secrecy, were read; after which *Jacob Sawbridge*, Senior, Esq; was examined, as were also *Daniel Watkins* and *John Clerk*. After this Sir *George Caswell* was heard in his Place, and being withdrawn, it was resolved, That it appears to this House, that Sir *George Caswell*, Knt. and one of the Co-partners of *Turner and Company*, and a Member of this House, did on or about the 14th Day of December 1720, (after this House had began to enquire into the Conduct of the late Directors of the South Sea Company) order *Daniel Watkins*, one of the Book-keepers of the said *Turner and Company*, to erase in several places of the Books of the said *Turner and Company*, the Name of *Stanbope*, and to make the same *Stangape*, which was accordingly done. Another Question being proposed in relation to the said Sir *George Caswell*, the Sergeant at Arms was directed to acquaint him, that he might come again into the House, which Sir *George* did, and desired farther Time to summon several Witnesses to be examined: Whereupon the farther Consideration of the Report from the Committee of Secrecy was put off to the Monday following.

March 8. Those parts of the fifth Report of the Committee of Secrecy which related to *John Aislaby*, Esq; a Member

of the House, were read; and then the second Report from the said Committee was read; and a Letter from the said Mr *Aislaby* to Mr *Weymondfield*, dated March 1st, 1719; and also several Examinations of Mr *Weymondfield* before the said Committee; and the Examination of Mr *Robert Surman*, taken the 31st of January last; and the Examination of Mr *Francis Hawes*, before the said Committee, taken the 24th of February last, were read; afterwards Sir *John Fellows*, Mr *Charles Joye*, Mr *Hawes*, Sir *John Blunt*, Mr *Holditch*, Mr *Gibbon*, and Mr *Chester*, were severally called in and examined. Then the Examination of Mr *Hawes*, taken the 31st of January last, before the said Committee, was read; and Mr *Hawes* was called in and examined. Then the Examination of Mr *Robert Surman*, taken before the said Committee the 7th Day of March last, was read; and he was called in and examined, and proved an Account of the South Sea Stock bought by Mr *Knight* for Mr *Aislaby*, which Account was read; and after Mr *Weymondfield* had been examined, the Examination of Sir *Theodore Janssen*, taken before the said Committee the 20th and 26th Days of January last; and the Examination of Sir *Lambert Blackwell*, taken before the said Committee the 25th Day of January last, were read. Afterwards Mr *Gibbon*, Sir *John Fellows*, and Mr *Joye*, were again severally called in and examined. And then the Examination of Mr *Knight* taken the 17th Day of January last; and the Examination of Sir *John Blunt*, taken before the said Committee the 14th Day of January last; the Copy of the Warrant for making forth new Exchequer Bills for one Million; and also the Copy of the Memorial from the South Sea Company, relating to the issuing of Exchequer Bills by way of Loan to the said Company, were read: And afterwards Sir *John Fellows*, and Sir *John Blunt*, were again severally called in and examined.

The reading of the Papers, and the Examination of the Persons above-mentioned, lasted till about nine a Clock in the Evening; after which Mr *Aislaby* made a long, submissive and pathetick Speech, in his own Defence; but what was deposed against him, by Mr *Hawes*, viz. That he had caused the Book of Accounts between them, to be burnt, and given him a Discharge for the Balance,

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amounting to about 42,000 *l.* appear'd so heinous and so home a Proof, that after he was with-drawn, the House came to the following unanimous Resolutions, viz.

Resolv'd *Nemine Contradicente*, I. That it appears to this House that 22,000 *l.* South Sea Stock was bought by Mr Robert Knight, late Cashier of the South Sea Company, upon the 3d and 19th Days of December, 1719, for the Use and on the Account of John Aislaby, Esq; (a Member of this House) then Chancellor and under Treasurer of the Exchequer, and one of the Commissioners of his Majesty's Treasury.

II. That from the 30th Day of January, 1719, to the 4th Day of March following, inclusive 70,000 *l.* South Sea Stock was transacted by Mr Matthew Weymondfold, Broker, by the Direction and on the Account of the said John Aislaby, Esq;

III. That 20,000 *l.* South Sea Stock, part of the said 70,000 *l.* Stock, was deliver'd to Matthew Weymondfold, Broker, on the 12th Day of February, 1719, by Robert Surman, late Deputy-Cashier of the South Sea Company, at the Rate of 130 *l.* per Cent. by the Direction of Robert Knight late Cashier of the said Company, for the Use and Benefit of the said John Aislaby, Esq;

IV. That several Parcels of the Stock, part of the said 70000 *l.* Stock, amounting to 20000 *l.* Stock, for 35357 *l.* 10 *s.* were bought by Matthew Weymondfold, Broker, on the 1st Day of March 1719, by the Order of the said John Aislaby, Esq; and that the said 20000 *l.* Stock was delivered by the said Matthew Weymondfold on the 4th Day of March 1719, to Robert Knight late Cashier of the South Sea Company, for the Use and Benefit of the said Mr Aislaby; and that the said Robert Knight did then pay the said 35357 *l.* 10 *s.* for the same.

V. That the aforesaid 20000 *l.* South Sea Stock, was Stock taken in and held by the said Robert Knight, for the Benefit of the said John Aislaby, Esq; after the Proposals of the South Sea Company were accepted by this House, and a Bill ordered to be brought in thereupon without any Money paid or Security given by the said Mr Aislaby for the said Stock.

VI. That the taking in and holding the said 20000 *l.* South Sea Stock by the said Robert Knight, with the Privacy and for the Benefit of the said John Aislaby, Esq; was a most notorious, dangerous

and infamous Corruption in the said Mr Aislaby.

VII. That it appears to this House, that between the 20th Day of March 1720, and the 21st Day of November following, there was an Account between Turner and Company, and Edmond Waller, Son-in-Law of the said John Aislaby, Esq; amounting in the whole to the Sum of 79445 *l.* 15 *s.* 9 *d.* and that there was also an Account of South Sea Stock depending between the said Turner and Company, and the said Mr Waller, on the Ballance of which last mentioned Account there was 77600 *l.* due from the said Turner and Company, for the securing whereof the said Turner and Company entered into Bonds the 26th of November last, for twelve Months, from the 24th of September then past, viz. One Bond for 44600 *l.* to the said Edmond Waller, and one other Bond to Thomas Weddall, Esq; for 33000 *l.* in Trust for the said John Aislaby.

VIII. That the said John Aislaby, Esq; was privy to, and did approve and consent that the Million of Exchequer Bills lent by the Treasury to the South Sea Company should be lent out by the said Company upon their Stock, and accordingly the same was done.

IX. That the said John Aislaby, Esq; at a Meeting with the late Sub-Governor and several of the Directors of the South Sea Company, did advise the taking in the first Money-Subscription at 300 per Cent. and agreed to promote the same.

X. That the said John Aislaby, Esq; gave in a List to the late Directors of the South Sea Company, of the Names of Persons to be admitted into the third Money-Subscription at 1000 *l.* per Cent. for several Sums of Money amounting to 75300 *l.* and did thereby promote and encourage the said Subscription.

XI. That the said John Aislaby, Esq; has encouraged and promoted the dangerous and destructive Execution of the late South Sea Scheme, with a view to his own exorbitant Profit; and has combined with the late Directors of the South Sea Company in their pernicious Practices to the Detriment of great Numbers of his Majesty's Subjects, and the Ruin of the publick Credit and the Trade of this Kingdom.

XII. That the said John Aislaby, Esq; be for his said Offences expelled this House.

Then

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Then it was ordered that the said *John Aislaby*, Esq; be committed Prisoner to his Majesty's Tower of *London*; and that Mr Speaker do issue his Warrant accordingly. And that Leave be given to bring in a Bill for restraining *John Aislaby*, Esq; from going out of this Kingdom for the space of one Year, and untill the end of the next Session of Parliament, and for discovering his Estates and Effects, and for preventing the transporting or alienating the same.

March 10. The House proceeded to take into their serious Considerations that part of the first Report which relates to 50000 *l.* South Sea Stock, taken in and held by *Robert Knight*, for the use of *Elias Turner*, *Jacob Sawbridge*, and *Sir George Caswell*, (a Member of this House) which was read; after this *Sir George Caswell* was heard in his Place, and in his Defence alledged, 'That he had made a lawfull Bargain for the Stock in Question with Mr *Knight*, and had several times offered to pay the Value off it, but was put off from time to time by Mr *Knight*, who told him he was not at Leisure to make up Accounts with him; and that Mr *Knight* had sufficient Security in his Hands.'

To prove which *Sir George* called several Witnesses. Hereupon three or four Members spoke in his behalf, and among other Things said they were satisfied he had given sufficient Security; but the Question being put whether he had or not, it was carried in the Negative by 227 Voices against 93.

Then *Sir George Caswell* stood up again, and expressed his great Sorrow, That he had the Misfortune to fall under the Displeasure of the House, which lay the more heavy upon him, because he was not conscious of any Crime unless it were the extraordinary Zeal and Affection he had shewn for the Support of the present happy Settlement, having assisted the Government with vast Sums of Money at 3 per Cent. when they could get it no where else. For the Truth of which he appealed to the Members of the House, who were then Commissioners of the Treasury. Hereupon *Mr Clayton* stood up and witnessed to the Truth of his Allegation: But his past Services not being thought a sufficient Attonement for the great Share he had in the fraudulent Management of the South Sea Scheme; after he was with-drawn, the House

came to the following Resolutions, viz.

I. That it appears to this House, that during the time the Bill for enabling the South Sea Company to enlarge their Capital Stock and Fund was depending in Parliament, 50000 *l.* Stock being part of the 574,500 *l.* fictitious Stock, entered in the Cash-Book of the Company, as sold for 1259325 *l.* was taken in or held by *Robert Knight*, late Cashier of the said Company, for *Elias Turner*, *Jacob Sawbridge*, and *Sir George Caswell*, (a Member of this House) without any valuable Consideration paid, or sufficient Security given, for the acceptance of, or payment for such Stock.

II. That it appears to this House by the Books of the said *Turner* and Company, and the Examination now before this House, that there was a clear Profit of 250000 *l.* made of the said 50000 *l.* Stock so taken in or held as aforesaid.

III. That the said *Sir George Caswell*, by concurring with his Partners the said *Elias Turner* and *Jacob Sawbridge*, in having the said 50000 *l.* Stock taken in or held as aforesaid, has been Guilty of a corrupt, infamous and dangerous Practice, highly reflecting on the Honour and Justice of Parliament, and destructive to the Interests of his Majesty's Government.

IV. That the said *Sir George Caswell*, be for the said Offence expelled this House.

V. That the said *Sir George Caswell*, be committed Prisoner to his Majesty's Tower of *London*, and that Mr Speaker do issue his Warrants accordingly.

VI. That the Estates Real and Personal of the said *Sir George Caswell*, *Jacob Sawbridge*, and *Elias Turner*, be subject and liable to answer and make good to the South Sea Company the aforesaid Sum of 250000 *l.* which was the advanced Price on the 11th Day of *June 1720*, of the said 50000 *l.* Stock, over and above the Sum of 125000 *l.* paid to the said Company for the same.

March 17. The Order of the Day being read for the House, to take into farther Consideration the Report from the Committee of Secrecy, *Mr Hutcheson* represented, That it was impossible to proceed in so Important an Affair without exposing the Justice of Parliament, to be baffled as it had been in some late Instances so long as they wanted so material a Witness as Mr *Robert Knight*: And therefore

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therefore he moved, and being seconded, it was resolved *Nemine Contradicente*, that an humble Address be presented to his Majesty, humbly to desire his Majesty that he would be pleased to impart to this House the Advices his Majesty has received, or shall receive from abroad, concerning his gracious Endeavours to bring over *Robert Knight*, late Cashier of the South Sea Company, to answer to the Justice of the Kingdom: Which Address was ordered to be presented by such Members of the House as were of his Majesty's most Honourable Privy-Council. (*It was by many conjectured that the Remora that hindered Mr Knight's coming over, was rather in London than in Vienna or Brussels.*)

It was generally expected that the Commons would have proceeded the same Day on that part of the Report of the Committee of Secrecy which related to *James Craggs*, Esq; but whether the Terror of his approaching Trial, or the loss of a beloved Son for whom he had been amassing vast Heaps of Riches, cast a Damp upon his Spirits, he died about ten o'Clock the Night before in a Lethargick Fit; leaving behind him an Estate valued at one Million and a half, to be divided among the three Daughters, who were married to three Members of Parliament, viz. *Mr Tresuffles*, *Mr Newsham*, and *Mr Elliot*.

March 20. Mr Comptroller acquainted the Commons that their Address relating to *Mr Knight* having been presented to the King, his Majesty had commanded him to lay before the House several Letters and Papers containing Advices from *Flanders* concerning him, (with a Schedule of them) and at the same time to acquaint the House, that his Majesty had not received any Advice of Colonel *Churchill's* being got to *Vienna*, nor any Letter from thence relating to *Mr Knight*; that as soon as any should come to his Majesty, they should be laid before the House: Hereupon several Letters from *Mr Leathes*, his Majesty's Resident at *Brussels*, to the Secretary of State, were read, importing in Substance, That pursuant to his Orders he had made the most pressing Instances with the Marquis *De Prie*, for the delivering up of *Mr Knight*: But had been answered that the said Marquis had not received any Instructions from *Vienna* about that Matter; that in the mean time, he was apprehensive that the same would meet

with great Difficulties. That the Greffier or Secretary of the States of *Brabant*, had been twice with the said Marquis to represent to him, that according to one of the Articles of the joyful Entry of *Brabant*, which was granted them by the Emperor *Charles V.* and has been sworn to by all his Successors (and which they look upon as their Magna Charta) no Person charged with, or apprehended for any Crime, can be removed to be tried out of their Province, and that the Deputies of the States insisted upon that Article, of which the Resident had inclosed a Copy in *French*, which was also read in the House.

Most of the Members appeared surprized at the unexpected Difficulty about the Delivering up *Mr Knight*, which was started in the Name of the States of *Brabant*; and the Lord *Moleworth* among others said thereupon, that it was to be hoped they should have a more satisfactory answer from *Vienna*, than they had from *Brussels*: But if they had not, it would in his Opinion be proper to call for the Treaties lately entered into with the House of *Austria*, to know upon what Motives we have been at so great an Expence of Blood and Treasure, and have sent our Men of War to rot and be worm-eaten in the Mediterranean, to conquer Kingdoms for the Emperor. Adding, that if that pretended Privilege of the States of *Brabant*, should be insisted upon that they might remove that Obstacle, by addressing his Majesty to grant his Pardon to *Mr Knight*, in order to have him brought over: But that it was proper not to make any farther Step in that Affair, till they were acquainted with the Success of Colonel *Churchill's* Negotiation at *Vienna*.

March 22. Mr Comptroller acquainted the Commons, that his Majesty having the Day before received a Letter from Colonel *Churchill*, directed to the Lord Viscount *Townshend*, dated *Vienna* the 4th of *March* 1720-21, had commanded him (pursuant to the Address of the House) to lay a Copy thereof before the House; which Mr Comptroller presented to the House accordingly. The Copy of that Letter was thereupon read, importing in Substance, that he was just arrived at *Vienna*, and would not lose one Moment, in making the most pressing Instances to the Imperial Court for the delivering up of *Mr Knight*, and that he did not doubt Success, unless the Privileges

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Privileges of the States of *Brabant* interfered; several smart Reflections were made (particularly by the Lord *Molesworth*) upon the frivolous Pretence that was made use of, to baffle his Majesty's gracious Endeavours to bring over Mr *Knight*: But the House did not think fit to come to any Resolution thereupon; and then, in a Grand Committee went through the Bill for the better establishing of publick Credit, by preventing for the future, the infamous Practice of Stock-Jobbing. The same Evening Colonel *Churchill* arrived from *Vienna*, which being known the next Morning, occasioned a general Surprise.

The same Day the Royal Assent was given to an Act to enable the South Sea Company to Ingraft part of their Capital Stock and Fund into the Stock and Fund of the Bank of *England*, and another part thereof into the Stock and Fund of the *East India* Company, and for giving farther time for Payment to be made by the said South Sea Company to the use of the Publick.

March 24. Colonel *Churchill* being come into the House of which he was a Member, it was expected that an Account of his Negotiations would that Day have been laid before the Commons: But they were only given to understand, that as soon as the Dispatches he brought from *Vienna* could be translated, they should be laid before the House, who thereupon adjourned till the 27th.

March 27. Mr Comptroller acquainted the House, that his Majesty had commanded him to lay before them Copies of several Letters and Papers relating to Mr *Knight*, which he presented to the House accordingly, with a Schedule of them. The Copies of the said Letters were read, and among them a Letter from the Emperor to the King of *Great Britain*, expressing his Imperial Majesty's Inclination and Readiness to comply with his *Britannick* Majesty's Desires as to the delivering up of Mr *Knight*, but that the States of *Brabant*, having and claiming particular Privileges which his Imperial Majesty was engaged to maintain, it would be necessary to make Application to the said States; and his Imperial Majesty on his part, would not fail to support such Instances as should be made: To which effect Prince *Eugene* wrote a Letter to the Marquis *De Prie*, which was also read. Several smart Reflections were made by a noble Member,

on the former of these two Letters: But this Affair being equally nice and important, it was resolved to take into Consideration the several Letters and Papers relating to Mr *Knight*, which his Majesty had been pleased to communicate to this House, in a Grand Committee on the 29th.

March 29. The Commons in a Grand Committee took into Consideration the several Letters and Papers laid before them relating to Mr *Knight*. After the reading of some of those Papers, Mr *Hutcheson* opened the Debate, representing how much on the one Hand, the Publick was concerned in having the Authors of the present Distress fully discovered and brought to condign Punishment; and how impracticable it was on the other Hand, to proceed in this important Inquiry so long as the principal Agent of the late South Sea Directors, and their Accomplices was kept out of the way; that in the mean time the publick Calamity increasing every Day, the Nation called aloud for Justice: And therefore if the means already used for bringing over Mr *Knight* proved abortive, it were advisable to have recourse to more speedy and effectual Methods. Sir *Joseph Jekyll* and the Lord *Molesworth* strongly supported Mr *Hutcheson*, and in particular shewed, that it was incumbent on some Persons in the Administration to have Mr *Knight* brought over in order fully to clear their own Innocence; otherwise, though acquitted, they would still be looked upon as criminal. Urging that it was matter of Wonder, that so frivolous a Pretence as the Privileges of the States of *Brabant*, should be made use of to put a stop to so important an Inquiry, especially considering how little those Privileges had been regarded in more material Points, and what Obligations the House of *Austria* lay under the *British* Nation. Sir *R——d St——e* offered something against obliging Mr *Knight* to be an Evidence whether he would or no; but no great Stress was laid upon it. On the other Hand, Mr *Lechmere* represented, that in all probability the Court of *Vienna* had not, at first, fully considered the Importance of the Instances that were made to them in his Majesty's Name, and at the desire of the Commons of *Great Britain*: But that it was to be presumed that when so wise a Prince as the present Emperor should be apprised that the Welfare and Safety of *England*, to whom his Im-

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perial Majesty has so great Obligations depending in some Measure on the delivering up of Mr *Knight*, he would readily comply with their Desires: Hereupon Mr *Lechmere* moved that an humble Address be presented to his Majesty, returning the Thanks of this House for the Instances he had been pleased to make, by a Letter under his Royal Hand to his Imperial Majesty, for obtaining the delivering up of Mr *Knight*, pursuant to the Address of this House; and for communicating to this House, the Steps which have been taken relating thereto; and to represent to his Majesty the Dissatisfaction which his Commons have at the Obstacles which they find have been raised under the pretence of the Privileges of the States of *Brabant*, against a Compliance with his gracious Endeavours. And also to represent that this House is every Day more and more convinced of the high Importance it is to the Justice due to his Majesty's People, that effectual Measures be speedily taken for bringing over Mr *Knight*. And earnestly to beseech his Majesty to employ his most pressing Endeavours in such manner as in his great Wisdom shall be thought proper for attaining the just Desire of his Commons.

No Body offered to oppose this Motion which after Mr *Speaker* had resumed the Chair, Mr *Brodrick* reported to the House, and the same being agreed to *Nemine Contradicente*, it was resolved that the said Resolution be laid before his Majesty by the whole House.

Accordingly *March 30*. The Commons to the Number of above three Hundred in their Coaches, with their Speaker at the Head, went about two o'Clock in the Afternoon to St *James's*, and presented the said Resolution to his Majesty, who returned the following most gracious Answer.

'I am very well pleased that the Instances which I have made for obtaining the delivering up of Mr *Knight*, have given you Satisfaction; I shall continue to employ my utmost Endeavours for obtaining what you desire; and hope they will prove effectual.'

April 14. Two Aldermen and one of the Sheriffs of the City of *London*, presented to the House, the Petition of the Lord-Mayor, Aldermen, and Commons of the City of *London* in Common-Council assembled, which was read, ordered to lie on the Table, and is as follows.

To the Honourable the Commons of Great Britain in Parliament assembled. The humble Petition of the Lord Mayor, Aldermen and Commons of the City of *London*, in Common-Council assembled.

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Sheweth,

'That your Petitioners think it their Duty most humbly to represent to this Honourable House, the present State of the City of *London*, so considerable a Part of the Kingdom, now fill'd with numberless Objects of Grief and Compassion, the sad Effects of the Mismanagement, Avarice and fatal Contrivances of the late Directors of the South Sea Company, their Aiders, Abettors and Confederates in the Destruction of their Country.

'Nor is it the Case of this great City alone, your Petitioners lament; but the general Decay of Trade, Manufactures, and of public Credit, whereof this Honourable House have been always so extremely tender, as also of the Honour of the *British* Name and Nation.

'Your Petitioners, beg leave to return their most humble thanks to this Honourable House for the great Pains they have taken to relieve the unhappy Sufferers, by compelling the Offenders to make Restitution, as likewise for their continu'd Application to lay open this whole Scene of Guilt, notwithstanding the industrious Artifices of such Sharers in the common Plunder, as have endeavour'd to obstruct the Detection of Fraud and Corruption: And your Petitioners doubt not but the same Fortitude, Impartiality and public Spirit, wherewith this Honourable House have hitherto acted, will still animate them in the Pursuit of those truly great and noble Ends.

'We are too sensible of the Load of the public Debts, not to wish that all proper Methods may be taken to lessen them, and it is an infinite Concern to us, that a Payment of a great Sum towards them (which was expected from the late Scheme) is now rendered extremely difficult if not impracticable and yet is a Cloud hanging over the Heads of the present unfortunate Proprietors of the South Sea Company, and a great Damp to public Credit. We will not presume to mention in what Manner Relief may be given in this arduous Affair, but most humbly submit it to the Consideration of this Honourable

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'Honourable House. Your Petitioners therefore most humbly pray this Honourable House will be pleased, to take such farther Measures, as they, in their great Wisdom shall judge proper, that Trade may flourish, publick Credit be restored, and Justice done to an injur'd People: And your Petitioners shall ever Pray, &c.'

April 17. The Petitions of the County of Worcester, the County Town of Maidstone in Kent, Borough of Leicester, City and Liberty of Westminster, praying, That the House would continue to proceed with the same Spirit and Zeal, to detect and prosecute all Manner of Persons who, by their destructive Council, fatal Aid and unaccountable Avarice, have so greatly impoverish'd the Nation, were presented, read, and ordered it to lie on the Table.

Petitions from several other Counties and Boroughs, of the like Tenour, were afterwards presented to the House.

April 21, Mr Broderick read a third Report from the Secret Committee, which related chiefly to James Craggs, Sen. Esq; late Post-Master-General, which imported in Substance, that Forty Thousand Pounds South-Sea Stock, had been taken in and paid for out of the Cash of the South-Sea Company, for the Use and Benefit of the said Craggs. It appeared likewise by this Report, that the Secret Committee had several times examined Mr Waller, but that he contradicted himself in several Particulars, pretending that he had torn or burnt all his Books of Accounts; so that he had nothing to shew for all his Dealings, either for himself, his Mother, or Mr Aislaby, his Father-in-law. These Particulars incensed many of the Members: And the Bill for restraining John Aislaby, Esq; from going out of this Kingdom, &c. and for discovering his Estate and Effects, &c. being thereupon read a second time and committed. A Motion was made for consolidating the said Bill, with the Bill for Relief of the unhappy Sufferers in the South-Sea Company: And some other Gentlemen, represented, that it would seem hard to put a Person of Mr Aislaby's Eminence and Distinction, on the same Level with the Directors, and that such a Precedent might be of dangerous Consequence: But Mr Lechmere, Sir Joseph Jekyll, the Lord Moleworth, Mr Broderick, Mr Shippen, and some other Members, speaking for the

Motion, the Court-Party did not think fit to divide against it, and so it was carried and resolved, that Mr Aislaby's Bill be committed to the Committee of the whole House to whom the Bill for the Relief of the unhappy Sufferers in the South-Sea Company, was committed and ordered that it be an Instruction to the said Committee, that they do alter, and make both the said Bills into one. It was also ordered upon Serjeant Pengelly's Motion, seconded by General Rosse, that it be an Instruction to the said Committee, that they do provide by a Clause or Clauses, for subjecting the real and personal Estates of the said John Aislaby, Esq; in the same Manner, and to the same Purposes, to which the Estates of the late Directors, of the South-Sea Company are subjected, by the Bill for Relief of the unhappy Sufferers in the South-Sea Company.

April 22. Several of the Directors, and Mr Surman, one of the late Clerks of the Treasury-Office of the South-Sea Company, petitioned the Commons for Compassion: And on the other Hand, four Petitions, viz. of the Counties of Hertford and Dorset, of the City of Bristol, and of the Borough of Oakhampton, in Devonshire, pray'd for Justice to an injured Nation.

April 24. Eleven other Petitions from the late Sub-Governor, Deputy-Governor, and nine of the late Directors of the South-Sea Company, were also presented to the Commons and read; as were likewise five Petitions, (viz. of the Counties of Essex and Bucks, City of Exeter, Borough of Agmondesham, or Amersham, and of the Justices of Peace of Middlesex) for Justice.

April 29. Sir Harcourt Master, and Sir John Blunt, two of the late Directors, implored the Compassion of the House: but it was observed that Sir John Blunt's Petition, suggesting his Innocence, rather moved their Laughter than Compassion. After this, six new Petitions for Justice were read, viz. of the Counties of Warwick, Somerset, and Kent, Town of Nottingham, Town of Beverley in Yorkshire, and Borough of Boston in Lincolnshire.

April 29. Mr Shippen observed, That the House had sat a long while, and nothing had yet been done towards the restoring of public Credit: that indeed a Member of great Parts and Abilities, had at first proposed a Scheme for that Purpose, but that instead of proving an effectual

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effectual Remedy, it appeared at last to be a meer Palliative, which had rather inflam'd than alleviated the Distemper. That by this Time a whole injur'd Nation call'd aloud for Vengeance; and if they neglected to hear the Voice of the People, it would look as if they had a mind to provoke them to do themselves Justice. That 'twas ever his Opinion that the only effectual Means to restore Credit, was to call them to a strict Account who had ruin'd it, and, in particular, all such as had apply'd any Part of the Public-money, entrusted in their Hands, in Stock-jobbing, and had raised vast Fortunes by robbing the Public. And moved therefore, that it be an Instruction to the Committee of Secrecy, that they enquire what Public-money, had been employ'd by any Treasurer, Cashier, Collector, Receiver, or other Officer concerned in the Receipt or Payment of Public-money, or of any other Part of his Majesty's Revenue or by any in trust for them, or by their Order in buying Stock or Subscriptions in the South-Sea, or any other Company, or in Annuities, or other Parliamentary Securities, or otherwise making Use of or imploying the same, to their private Advantages, since the first Day of December, 1719.

A certain Member answer'd, that it was known to every Body, that he ever was against the South Sea Scheme, and had done all that in his Power lay, to hinder it's taking Place: But now the Mischief was done, and Things were brought to such Extremities, he thought it his Duty, and therefore was willing to try the best Method he could think of, to extricate the Nation out of the Difficulties into which they were plung'd: That he did not pretend to work Miracles; but only to use his utmost Endeavours towards the retrieving the late Misfortunes: That with his honest Intention he had promoted a Scheme, which had been laid before him, and appear'd the most plausible of any then propos'd for restoring the publick Credit; that it could not be deny'd, that while that Scheme was pursued, it had done some good, and kept up the Price of Stocks; and that they fell since it had been laid aside: That however he never intended to raise Stocks above the intrinsic Value, for that would bring us again into the same unhappy Circumstances, which the raising of them had before occasion'd. He afterwards lamented the ill Disposition

of some Persons, who instead of concurring with others in remedying the present Distemper, us'd all possible Means to irritate and exasperate the Minds of the People: Concluding with a Motion that a Day be appointed to consider of the State of the publick Credit of the Kingdom. This Motion was unanimously agreed to, and that Day Sevennight appointed for that purpose.

April 28. After reading the Petitions of the Corporation Town and County of Bedford, for punishing those who had raised their Fortunes by sacrificing the public Credit, the Commons proceeded to take into Consideration those Parts of the Reports of the Committee of Secrecy of the 21st of April, Instant, and of the 16th of February last, relating to James Craggs, Esq; deceased, late Post-Master-General, which having been read, Mr Broderick mov'd that the said Mr Craggs having taken 40000*l.* South Sea Stock, without paying for it, or giving sufficient Security for the Payment of the same, his Estate might be made liable to the same Forfeitures, with those of the late Directors.

Hereupon Grey Nevil, Esq; desired that the Gentlemen concern'd in this Affair, two of whom were Members of this House, might first be heard by their Council, and produce what Witnesses they had, before the House came to any Resolution in this Matter. Mr Robert W — seconded him, and in particular said, "He hop'd the House would not break their known Rules, which were, not to condemn any one without first hearing them; and sure they would not deny this Piece of Justice to their own Members." Mr H — W —, spoke to the same purpose; and then Mr Trefusis, (one of the Members, interested in this Business) stood up, and said, "they were not at all prepar'd, not expecting, that this Affair would have come on this Day, because there was another part in the Report before it, and therefore he desired the House would give them time to get their Witnesses: He added, he had never been us'd to speak in the House, or but very rarely, and his Brother-in-Law, Mr Nufam, not at all, which he hoped the House would take into Consideration, and allow them Council to speak for them. That by Mr Craggs's Death, his Estate was devolv'd to them, and Mr Elliot, (lately a Mem-

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ber of the House) in right of their Wives the Deceased's three Daughters: That there was no Manner of Crime laid to their Charge; and since Mr Craggs was dead, and could not answer for himself he hop'd the House would allow them Time and Council." This was oppos'd by Sir Joseph Jekyll; but Mr W—— said, "That since the two Gentlemen concern'd, had not been us'd to speak in the House, and therefore were not likely to make so good a Defence as otherwise they might, he thought it reasonable to allow them Council, and give them time to prepare." To this Mr L—— reply'd, "That it might indeed seem somewhat hard to deny Council to Gentlemen who were not us'd to speak in the House; but he doubted not but that good-natur'd Gentleman that spoke last, who had so good a Capacity, and was so able to advise them, would sit by them, and by his Assistance be as useful to them as if they had Council, as he had been to several others in the like Case."

No Return was made to this Reply, upon which, the Motion for allowing Council was drop'd: And then after some farther Debate about the Time for hearing this Matter, the first of May was appointed for that Purpose, in a Committee of the whole House.

May 1. Mr Surman and several of the Directors, having been examined concerning James Craggs, Esq; deceased, late Post-Master-General, it was resolv'd, first, That it appears to this House, that on or about the 27th of February, 1719, a Sum of 30000 l. Capital Stock of the South Sea Company, which had been taken in, and paid for out of the Cash of the said Company, was upon the Solicitation of the said James Craggs, held by the said Company, for the Use and Benefit of the said James Craggs, which said 30000 l. Stock was afterwards on the 28th of March, 1720, transferr'd to the said James Craggs.

Secondly, That it appears to this House, that on the fourth of March, 1719, a farther Sum of 10000 l. Capital Stock of the South-Sea Company was taken in and paid for out of the Cash of the said Company, by the said Robert Knight, for the Use and Benefit of the said James Craggs.

Thirdly, That it appears to this House, that the said James Craggs was

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a notorious Accomplice and Confederate with the said Robert Knight, and some of the late Directors of the South-Sea Company, in carrying on their corrupt and scandalous Practices, and did, by his wicked Influence, and for his own exorbitant Gain, promote and encourage the pernicious Execution of the late South-Sea Scheme.

Fourthly, That all the Estate real and personal, of which the said James Craggs was seized or possessed from and after the first Day of December, 1719, (over and above what he stood seized or possessed of, on the said first Day of December) be applied for and towards the Relief of the unhappy Sufferers in the South-Sea Company, and for deterring all Persons from committing the like wicked Practices for time to come.

Fifthly, That it be an Instruction to the Committee of the Whole House, to whom the Bills for the Relief of the unhappy Sufferers in the South-Sea Company, and for restraining John Aislaby, Esq; from going out of this Kingdom for the Space of one Year, &c. are committed, that they do receive a Clause or Clauses pursuant to the said Resolutions.

May 2. Eight Petitions for Justice to an injur'd Nation were read, and order'd to lie on the Table. Then the Commons, in a Committee of the Whole House, took into Consideration, the public Credit of this Kingdom; and after reading the Proceedings and Resolutions of the general Court of the South-Sea Company held the 23d of December, 1720, as also the Resolutions of the general Court of the said Company held the 23d of December, 1720, as also the Resolutions of the general Court of the said Company held the 9th and 18th Days of March, 1720, relating to the four Money-Subscriptions, Mr Sloper open'd the Debate, and took notice, that one of the principal Causes of the Ruin of public Credit was the fraudulent dealing of the South-Sea Directors, with the Proprietors of the redeemable and other public Debts, and with the Money-Subscribers. He was seconded by the Master of the Rolls, and Mr Hutchefon, and the Chancellor of the Dutchy, who all concluded, that some Relief ought to be given to the said Subscribers. Mr Milner was of the same Opinion, and thereupon mov'd, that the seven Millions due from the South-Sea Company, to the Government be remitted. This was strenuously

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nuously oppos'd by Mr *Smith*, who shew'd how absurd it was, to pretend to retrieve public Credit by premitting, that is, by taking from the Public so great a Sum, to give it to private Persons: He own'd, that they who had suffered by the Fraud and Mismanagement of the late South-Sea Directors, were worthy Objects of Compassion; but that they ought to be reliev'd out of the Estates of those who had occasioned their Losses, and not out of the publick Money. This was answer'd by Mr *H— W—*, who was for Mr *Milner's* Motion; as were also the Lord *Tyrconnel*, Mr *Poultney*, Mr *R— W—*, Colonel *Bladen*, and some others, and though they were oppos'd by Mr *Shippen*, Serjeant *Pengelly*, and a few more, yet the Question being put, about a Quarter past Eight in the Evening, upon Mr *Milner's* Motion, it was carry'd in the Affirmative, by 221 Voices against 194.

The most remarkable Passage in this Day's Debate, was Mr *Sh—n's* naming a great Lady, who had a considerable quantity of South-Sea Stock given her; and afterwards telling a Story of *Alice Pearce*, the celebrated Mistress of of King *Edward III.*, who made a Breach between the King and the Black Prince, was twice removed from Court, by the Interposition and Sollicitation of the then Speaker of the House of Commons. This Story being looked upon as emptying an odious Parallel, Colonel *B—n* animadverted upon it with some warmth.

May 3. After reading the Petitions of the City of *Lincoln*, Borough of *Chipping Wycombe*, and Borough of *Abingdon*, for Justice, Mr *Farrer* reported to the House, the Resolution of the Day before, in a grand Committee about publick Credit, which occasioned a fresh Debate, from two 'till half an Hoar past six in the Evening, when the Court Party finding that their Opposers had the Majority, consented, without dividing, that some Amendments be made to the said Resolution, which was agreed to as follows, viz.

That for the re-establishing of publick Credit, Relief be given to the South Sea Company, with regard to the Payment of the 4,156,306*l.* 4*s.* 11*d.* and the four and half Years Purchase, and one Years Purchase, upon several Annuities, and other National Debts, the said Company giving such Consideration to the Publick and such farther Relief to the

several Proprietors and Persons concerned in Interest with the said Company, as this House shall think proper.

May 4. After the reading of the Petition of *Kingston upon Hull* for Justice, the House being informed, that Mr *Samuel Stroud*, Mr *Edward Owen*, and Mr *Joseph Shaw*, who stood charged with many corrupt and evil Practices, in the Report from the Committee of Secrecy, (of the 21st Day of *April* last) had been and were disposing of their Estates and Effects, in order to elude the Justice of this House, the said *Stroud*, *Owen*, and *Shaw* were ordered into the Custody of the Serjeant at Arms attending the House.

May 5. After reading two Petitions against the *Plunderers of the Nation*, the House went into a Grand Committee, to consider the State of the publick Credit. Among the rest Major-General *Wade* propos'd a new Scheme to relieve both the Annuitants, and other Proprietors of publick Debts, and the Money-Subscribers to the South Sea Company, which was in Substance, that the eleven Millions, or so much as the said Company had got by Subscriptions of all sorts, should be equally divided among the several Subscribers, or new Proprietors of the South Sea Stock according to their several Interests.

II. That as the Old Proprietors of the South Sea Stock were to have no Share in the said Profit, neither should they pay any thing towards any part of the seven Millions due from the Company to the Government. III. And that the Forfeitures of the Directors, Brokers, and others, should go towards the paying of the Company's Bonds and other Debts. This Scheme, which, indeed, was the most equitable, and most plausible, of any yet propos'd seem'd to be generally relish'd; but however, the Committee came to no Resolution about it. On the other Hand, Mr Chancellor of the Dutchy mov'd, that the House would settle and determine in what manner the Sufferers by the South Sea Scheme should be relieved, and not to leave it to the Directors; and that the House likewise determine all Bargains and Contracts to prevent Law-Suits: But nothing was done in this neither that Day.

May 6. Mr Comptroller by the King's Command, laid before the House Copies of several Letters and Papers relating to Mr *Knight*, which were read; particularly a Letter from Mr *Leathes*, the British Resident at *Brussels*, containing an

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an Account of the Excuses and Pretences made use of to elude his Instances for the delivering up of the said *Knights*. Those Excuses were thought so frivolous that a Motion was made for prohibiting the Importation of all Commodities of the Growth and Manufacture of the *Austrian Netherlands*, particularly Lace and Lawn, till such time as Mr *Knight* had been delivered up and sent over: But it was thought more proper that a Committee be appointed to consider of the State of the Trade between this Kingdom and the *Austrian Netherlands*, and to report the same as it should appear to them, to the House; which Committee was appointed accordingly. The same Day a Motion was made, that it might be an Instruction to the Grand Committee on the Bill for the Relief of the unhappy Sufferers, &c. that they should receive a Clause, that the paternal Estate of Mr *Aislaby* might not be liable to the same Forfeitures with the other part of his Estate; but though this Motion was strongly supported by three Members, yet it was rejected with general Indignation.

May 8. Sir *Joseph Jekyll*, Master of the Rolls, acquainted the House, that he was directed by the Committee of Secrecy to acquaint the House of an Application made to a Member of the said Committee relating to a Matter depending before this House, and thereupon named the Honourable General *Rosse* as the Gentleman to whom such Application was made; whereupon General *Rosse* acquainted the House, That that Morning while he was at the said Committee he received a Note, that a Gentleman was at the Door to speak with him, and he went out, and found there *Thomas Vernon*, Esq; (a Member of this House) who desired him to go into a little Room near, whether he went, and Mr *Vernon* acquainted him, that he had something to say to him, which he desired might go no farther; whereupon General *Rosse* told him, he hoped he had nothing to say to him, which might be improper for him to hear; after which Mr *Vernon* told him, there was a Disposition in the House to be favourable to Mr *Aislaby*, in the Bill upon which the House was to be in a Committee that Day, and that it was in his Power to do him Service, and for the same Mr *Aislaby* would make him any Acknowledgment, and in any manner he should think fit; upon which Mr *Rosse* (from what he first said) concluding it

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was upon some corrupt Matter, left him in a Passion and thought it his Duty to acquaint the Committee of Secrecy therewith, and the said Committee thought it was proper to have the Matter laid before the House. To this Matter Mr *Vernon* was heard in his Place, and owned the said Words and Circumstances; withal declaring, that he did not mention or intend any thing of Money, or any other corrupt Matter, and begged the Pardon of the Gentleman and of the House, if he had committed any Offence, he saying the Words without any corrupt Intention, and only on account of Friendship (being nearly related to Mr *Aislaby*). And then Mr *Vernon* withdrew. Hereupon it was resolved, That it appears to this House, that *Thomas Vernon*, Esq; (a Member of this House) hath made a corrupt Application to General *Rosse* (a Member of this House, and one of the Committee of Secrecy) in relation to a Matter depending before this House. Secondly, That the said *Thomas Vernon*, Esq; be (for his said Offence) expelled this House. It was also ordered, that the Thanks of this House be given to General *Rosse*, for the Justice he had done to this House, and to his Country, in laying the Application made to him by *Thomas Vernon*, Esq; before this House. And Mr Speaker gave him the Thanks of the House accordingly.

May 18. It was ordered, that the Grand Committee on the Bill for the Relief of the unhappy Sufferers, &c. have Power to receive a Clause for disabling the late Sub-Governor, Deputy-Governor, Directors, Cashier, Deputy-Cashier, and Accountant of the South Sea Company, and also *John Aislaby*, Esq; to hold or enjoy any Office, or Place of Trust or Profit under his Majesty, or to Sit or Vote in either House of Parliament.

May 23 Was read a Petition of the Annuitants and Proprietors of the redeemable Debts, setting forth, that they had lent a great part of their Estates on the Credit of several Acts of Parliament for the publick Service; and that they thought they had sufficient Security; but found themselves betrayed and given up by the Managers appointed by their Trustees, contrary to the true Intent and Meaning of the Law, and contrary to the Faith of publick Credit; and begging the Justice of the House, for Relief against the Fraud of the late South Sea Directors, as well as the great and notorious

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rious Breach of Trust in the Managers. And that in order to restore the publick Credit, the Petitioners might have a just and reasonable Satisfaction; and that their Case be duly considered and distinguished from that of the Money-Subscribers, who had been excused nine in ten parts in the third Money-Subscription, and four parts in five in the fourth; and humbly hoping, that such Relief might be granted them, as might be equal and proportionable to their different Claims and Titles.

The same Day a farther Progress was made in the Bill for the Relief of the unhappy Sufferers in the South Sea Company, and the chief Matter in Debate was, what Allowance should be given to the late Directors out of their Estates; Mr *Lounds* proposed an eighth part, to which it was objected that it would be too much for some who had the most bulky Estates and consequently had been deepest in the Guilt; and too little for others that had but small Estates, and were only passively Criminal, by not entering their Dissent to the fraudulent Management of the rest. Then it was proposed whether to allow them according to the Bulk of their Estates, or in proportion to their Share in the Guilt; but after some Speeches on both sides, it was thought proper to put off that Matter to the 25th.

May 25. The Commons in a Grand Committee on the Sufferers Bill resumed the Consideration of the Petitions of the late Directors of the South Sea Company. The Debate began with Sir *John Fellows*, the Sub-Governor, in whose behalf Mr *Sloper* moved, That since it did not appear that he had been so active in the late vile and pernicious Practices as some others had, he might be allowed 20,000*l.* out of his Estate. Mr *Hungerford* reduced it to 15000*l.* others to 12000*l.* and Mr *R—— W——* having at last proposed 10000*l.* the same was agreed to without any Division. There was no Debate about Mr *Joye* the Deputy-Governor; for it appearing that he had been deeply concerned in the Guilt, it was agreed to allow him only 5000*l.* Then proceeding Alphabetically to the late Directors, it was unanimously agreed to allow Mr *Astell* 5000*l.* But a Debate arose, whether to allow Sir *Lambert Blackwell*, 5 or 10,000*l.* and he having many Friends in the House, it was upon a Division carried for 10,000*l.* by a Majority of four Voices, viz. 112 Votes against 108.

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After this there was a long Debate about Sir *John Blunt*. Mr *Laurence Carter*, moved to allow him only one Shilling; the Lord *James Cavendish*, 1000*l.* and Mr *Plummer* 5000*l.* Sir *Joseph Jekyll*, moved for 10000*l.* and was seconded by General *Rosse*, the Lord *Malesworth*, Mr *Jeffreys*, and Mr *Winsor*, who all spoke very warmly on his Behalf; alledging that he had been more ingenuous in his Examination before the Secret Committee, than any of the late Directors; and had let them into a great many Secrets, which otherwise they could not have known. To this it was answered, by those that spoke on the other side, viz. Mr *Sloper*, Mr *Milner*, Mr *John Smith*, and Mr *H—— W——*, That he had been the chief Contriver and Promoter of all the Mischief, and therefore ought to be more severely punished. Mr *Sloper* added, That he was grown to that Height of Pride and Insolence last Summer, that he could not give a civil Answer to Persons far above him. And thereupon instanced in his Behaviour one Day at the Treasury of which he was himself Witness, when a Relation of a Great Man asking Sir *John* for a Subscription, the upstart Knight with a great deal of Contempt, bid him go to his Cousin *W——*, and desire him to sell his Stock in the Bank, and by that means he might be supplied. Here Mr *R—— W——* took up the Cudgels, and in a warm pathetick Speech ript up Sir *John Blunt's* whole Life; shewed, that he was a Projector of many Years standing; and had been the Author of several fallacious Schemes, by which unwary People had been drawn in to their utter Ruin. To this purpose Mr *R—— W——*, instanced in a Project for a Linnen Manufactory; but Mr *H—— W——*, his Brother, said thereupon, that was not his first: For there was a Gentleman that sat next to him, (meaning Mr *Jessop*) whom Sir *John* had drawn into a Project for bringing Water to London from a great Distance, which was to out-do the New-River Water, by which the Subscribers lost all their Money, though Sir *John* himself got some Thousands by it; which was confirmed by Mr *Jessop* himself. Nevertheless the Lord *H——* moved for allowing Sir *John Blunt* 10000*l.* urging, that the Secret Committee had promised him Favour for his Openess in his Examination: Upon which General *Rosse* desired, that the Noble Member who

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8 Geo. I. who spoke last might explain himself, since he seemed to intimate, as if the Secret Committee had used underhand Dealings. Adding, That for his part he knew of no Promise ever made to Sir John Blunt upon that account; that he was sure he never made any, and he believed he could answer for all the rest, that there never was any such Thing intimated to Sir John. The Lord H——— replied, that if that Honourable Member would repeat his Words as he spoke them, he would explain himself: Upon which the matter drop'd. Then the Question being put for allowing Sir John Blunt 1000*l.* it was carried in the Affirmative by a Majority of 44 Votes, viz. 138 against 94.

It was observed that Mr Lechmere, Mr Hutcheson, and Serjeant Pengelly, went out of the House, before the Debate about particular Persons came on; and that Mr Lechmere only took Notice, that the late Directors were all equally Guilty of a Breach of Trust, and therefore ought all to be punished; but that their Crimes not being equally flagrant, he thought there ought to be a difference in their Punishment.

May 26. Mr Clayton from the Committee of Secrecy reported to the House, that it appeared to the said Committee that Mr Christopher Clayton, (a Clerk in the Treasury-Office of the South Sea Company) had endeavoured by Threats and Menaces, to suppress the Evidence which Samuel Watts, (another Clerk in the said Office) was able to give to the said Committee; which report he read in his Place and afterwards delivered in at the Table, where the same was read. Hereupon it was resolved, *Nemine Contradicente*, that Mr Christopher Clayton, by endeavouring to prevail with Mr Samuel Watts by Threats and Menaces, to suppress the Evidence which he was able to give to the Committee of Secrecy, was guilty of a high Crime and Misdemeanour. And it was ordered, that the said Mr Christopher Clayton be, for his said Offence, committed Prisoner to his Majesty's Prison of the Gate-House.

June 1. The Commons in a Grand Committee on the Sufferers Bill proceeded to take into Consideration what Allowances should be given to the late Directors out of their Estates; and, going on in the Alphabetical Order, began with Sir Robert Chaplain. The Lord Moleworth, Sir John Eyles, and another Member

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8 Geo. I. having spoke in his Favour, it was agreed, without dividing, to allow him 10000*l.* and the same Allowance was given to Sir William Chapman, Mr Chester, and Mr Child. A Motion being made to give Mr Delaporte the like Sum, the Lord Moleworth was for reducing it to 7000*l.* but upon the Question whether to allow him 10 or 7000*l.* it was carried for 10 by a Majority of 150 Votes against 69. Mr Eyles's Case appearing in a favourable light, he was allowed 20000*l.* without dividing; and Mr Edmondson's Estate amounting to little more than 5000*l.* it was moved to allow it him whole, and to leave him out of the Bill; but after some Debate it was agreed to allow him only 3000*l.* Then the Question was put whether to allow Mr Gibbon 15000*l.* or 10000*l.* and it was resolved for the latter without dividing. It appearing that Mr Gore and Sir William Hammond had little or no Share in the fraudulent Contrivances of the leading Directors, the first was allowed 20000*l.* the other 10000*l.* It was proposed to give Mr Hawes 1000*l.* But Sir Nathaniel Gould, and some others, having observed, that he was very active in the late vile Practices and had occasioned the Ruin of many People, particularly of some Gentlemen he had been under in the Navy-Office, Mr Dominique moved thereupon, and it was agreed without dividing to allow him only 31*l.* being the odd Money of the Particulars of his Estate. Several Members spoke in Favour of Mr Horsley, particularly the Lord H——— and Sir Robert Rich, who moved for allowing him 10000*l.* which was carried without dividing; after which it was debated whether to allow Mr Holditch 500, 1000 or 5000*l.* the Voices were equally divided, viz. 86 and 86, upon which Mr Clayton, the Chairman, gave the casting Vote for 5000*l.*

June 2. The Commons in a Grand Committee proceeded on the same Affair, and began with Sir Theodore Janssen. Mr H——— W———, and Sir Richard Steele, having spoke in his Favour, they were answered by General Ross, and the Master of the Rolls; but after some other Speeches Mr Trenchard moved for allowing him 50000*l.* and the Question being put thereupon, was carried in the Affirmative by a Majority of 134 Votes against 118.

Sir Jacob Jacobson being the next and one of those who had the least Share in

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the Management of the fraudulent Scheme, Mr *Hungerford* moved to allow him 11000 *l.* which was all his Estate, except 481 *l.* which was agreed to without a Negative.

Mr *Ingram's* Case being much the like, Mr *Pulteney* moved for allowing him 12000 *l.* near three parts in four of his Estate, and being seconded by the Lord *H—*, it was carried without dividing.

The Commons were not so unanimous with relation to Sir *John Lambert*: Some inclined to believe him innocent, as indeed he was as to the first Projection of the villainous Scheme, and thereupon a Member moved to give him 20000 *l.* another would have reduced it to 10000 *l.* a third to 5000 *l.* and a fourth to 3000 *l.* but at last the Question being put for 5000 *l.* it was carried without dividing.

Then it was moved, and carried without Opposition, to allow Sir *Harcourt Masters* 5000 *l.* and in the same manner Mr *Morley* had 1800 *l.* (near his whole Estate) allowed him.

A Member having moved to allow Mr *Page* 10000 *l.* another would have reduced it to 5000 *l.* but the Question being put, which of the two Sums should be given him, it was carried for 10000 *l.* without a Division.

Colonel *Raymond* was the next, and his Case appearing extreamly favourable, Mr *Heysham* moved for allowing him 30000 *l.* and being seconded by Mr *Tusnel* the Attorney-General, and Mr *Hungerford*, no Opposition was made to Mr *Heysham's* Motion.

After this Mr *Sloper* moved for allowing Mr *Read* 10000 *l.* and, being backed by Sir *John Ward* and Mr *Dominique*, the same was carried without any Debate.

In the like manner the Sum of 14000 *l.* was allowed to Mr *Reynolds*, who was the last Person they went upon this Day.

June 3. A farther Progress was made in the Sufferers Bill, particularly with relation to the Petitions of the rest of the late Directors. Mr *Hungerford* having moved for allowing Mr *Sawbridge* 10000 *l.* was opposed by Mr *Lownds*, the Lord *M—*, Sir *Adolphus Oughton*, and Mr *H— W—*: But at last, a Member moving for 5000 *l.* it was agreed to without dividing. In the same manner the Sum of 15000 *l.* was allowed to Mr *Tillard*, and 800 *l.* to Mr *Turner*, which was near his whole Estate.

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Having gone through with the Directors, the Committee proceeded on Mr *Surman* the Deputy-Cashier, whose Case occasioned a Debate of about an Hour and half. Mr *Grey Neville*, who spoke most in his Behalf, represented that in the Course of the whole Affair he had only acted as a Servant and by the Command either of Mr *Knight* or of the Directors, and therefore strenuously insisted, that he might be left out of the Bill. Mr *Arthur Moore* spoke likewise in his Favour, and moved to allow him 30000 *l.* Mr *Hungerford* would have reduced it to 20000 *l.* Mr *Lechmere* to 12000 *l.* another Member to 10000 *l.* and another to 5000 *l.* All these were opposed by Sir *Joseph Jekyll*, Serjeant *Pengelly*, and Mr *H— W—*, who would not have allowed him above 20 or 30 *l.* At last the Question being put for allowing him 5000 *l.* it was agreed to without dividing.

June 5. Mr *Clayton* read a farther Report of the Committee of Secrecy, wherein about forty Members of both Houses of Parliament were charged with having South Sea Stock taken in for them, for considerable Sums without Proof of their having paid, or given sufficient Security, for the same; and it likewise appeared that about 300,000 *l.* had been given, in some of the Brokers Names, which they had all sworn they knew nothing of; so that the Committee could not discover who received that Sum. After the Report had been twice read, the Courtiers endeavoured to put off the Consideration of it to a long Day; urging the Importance and Nicety of an Affair in which the Reputation of so many Noblemen and Gentlemen was concerned; but the Question being put for *Thursday* the 8th of *June*, it was carried without dividing.

June 8. *William Forester*, Esq; and Sir *William Carey*, two of the Members named in the Report, were heard in their Defence and afterwards voted Innocent.

June 10. The Commons in a Committee of the whole House, considered farther of the Sufferers Bill, particularly with relation to the Allowances to be given to Mr *Grigsby* and Mr *Aislaby*. Mr *Arthur Moore* moved to allow the first 10000 *l.* but another Member said, 'That since that Upstart was once so prodigally Vain as to bid his Coachman feed his Horses with Gold, no doubt but he could feed on it himself; and therefore he moved that he might be allowed

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allowed as much Gold as he could eat, and that the rest of his Estate might go towards the Relief of the Sufferers. After some other Speeches, a Motion was made for allowing him 2000 l. which was carried without a Division.

Mr Astleby's Case came next under Consideration. Mr R—— W——, who spoke first, moved, that so much of his Estate might be allowed him, as he was possessed of towards the end of the Year 1719, before the South Sea Bill was brought in, and this Motion was backed by Mr Earl, Sir Charles Hotham, Mr Lowndes, Mr Lechmere, Mr Ward, Mr Palmer, and some others. On the other Hand Mr Freeman moved, that all he got since the Year 1714, might be confiscated and applied to the Use of the Publick; and he was supported by Sir Joseph Jekyll, who urged, that it was in the Power of the Lords of the Treasury to have prevented the Mischief that had been done by the Directors.

Mr Broderick, Mr Sloper, Sir William Wyndham, and some others, spoke on the same side with so much Weight, that the Question being put, that all the Estate which Mr Astleby was possessed of in the Year 1719, be left for him and his Family; the same, upon a Division was carried in the Negative by a Majority of 18 Votes. Then another Motion was made, and the Question put, for allowing him and his Family all the Estate he was possessed of on the 20th of October 1718, which was carried in the Affirmative by a Majority of 113 Voices against 95.

Here follows a compleat and exact Balance of the Estates of the late Sub-Governor, Deputy-Governor, &c. of the South Sea Company as delivered upon Oath to the Barons of the Exchequer; together with the Allowances out of each, thought proper by the Grand Committee of the Honourable House of Commons to be made to each Person respectively.

Persons.	Estates.			Allowances.		
	l.	s.	d.	l.	s.	o.
Sir John Fellows, Sub-Governor	243096	00	06	10000	00	0
Charles Joye, Esq; Deputy-Governor	40105	02	00	5000	00	0
Mr Astell	27750	19	08½	5000	00	0
Sir John Blunt	183349	10	08½	1000	00	0
Sir Lambert Blackwell	83529	17	11	10000	00	0
Sir Robert Chaplain	45875	14	05	10000	00	0
Sir William Chapman	39161	06	08½	10000	00	0
Mr Chester	140372	15	06	10000	00	0
Mr Child	52437	19	01	10000	00	0
Mr Delaport	17151	04	06	10000	00	0
Mr Eyles	34329	16	07	20000	00	0
Mr Edmondson	5365	00	00	3000	00	0
Mr Gibbon	106543	05	06	10000	00	0
Mr Gore	38936	15	05	20000	00	0
Mr Hawes	40031	00	02½	31	00	2
Sir William Hammond	22707	04	02	10000	00	0
Mr Horsey	19962	05	03	10000	00	0
Mr Holditch	39527	10	04	5000	00	0
Sir Theodore Janssen	243244	03	11	50000	00	0
Sir Jacob Jacobson	11481	04	00	11000	00	0
Mr Ingram	16795	00	00	12000	00	0
Sir John Lambert	72508	01	05	5000	00	0
Sir Harcourt Master	11814	12	03½	5000	00	0
Mr Morley	1869	10	03	1800	00	0
Mr Page	34817	12	03½	10000	00	0
Mr Reymond	64373	06	03	30000	00	0
Mr Read	117297	16	00	10000	00	0
Mr Reignolds	18368	13	02½	14000	00	0
Mr Sawbridge	77254	01	08	5000	00	0
Mr Tillard	19175	14	04	15000	00	0
Mr Turner	881	17	06	800	00	0
Mr Surman, Deputy-Cashier.	121321	10	00	5000	00	0

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June 26. Two Points were debated in the House, 1. That the Words seven Millions and upwards (in the Sufferers Bill) should be altered into these Words *an immense Sum*, which was moved by Mr R—— W——, and supported by the Chancellor of the Dutchy, and Mr *Hungerford*; but being opposed by Sir *Joseph Jekyll*, and some other Members, it was carried without dividing, that the Words seven Millions and upwards should stand.

The next Point was in relation to Mr *Aislaby*, who in the Preamble of the Bill is charged with Breach of the great Trust in him reposed, and that with a View to his own exorbitant Profit, he had combined with the late Directors of the South Sea Company, in their pernicious Practices, and had been Guilty of most dangerous and infamous Corruptions, &c. with other Allegations that are made the Ground of his Punishment, in the enacting part. Mr *Giles Earl*, moved, that these hard Epithets might either be left out, or at least softened; urging among other Reason, that the same would leave an indelible Blot upon his Son, a worthy Gentleman and a Member of this House, and his Family, to whom the House had thought fit to allow a considerable Estate.

To which it was answered, though the Facts mentioned in the Preamble of the Bill could not be legally proved, yet the House being satisfied in their Consciences of the Truth of those Facts, from the Evidence that had appeared before them, the same was sufficient for that House. Sir *Joseph Jekyll* having spoke with some Vehemence upon that Head, Mr *Neville* made some smart Reflections upon him: But though Mr R—— W—— and Mr *Lechmere* spoke likewise in Behalf of Mr *Aislaby*, yet were they not able to stem the Tide which run so strong against him, that it was carried without dividing, to let the Words in the Preamble relating to him continue in it.

June 29. The House having gone through all the Schedules of the late Directors Estates, and agreed with the Committee, as to the Allowances given to them, except the four following, viz. Mr *Astill* to whom they gave 10000 *l.* instead of 5000 *l.* Sir *Lambert Blackwell*, who had 15000 *l.* instead of 10000 *l.* Sir *John Blunt*, 5000 *l.* instead of 1000 *l.* and Mr *Francis Hawes*, 5000 *l.* instead of 311 *l.* It was moved to allow Sir

Theodore Janssen's Allowance to 40000 *l.* but upon a Division, it was carried by a great Majority for 50000 *l.* After this, a Clause was offered by Colonel *Earle*, to be added to the Bill, in Favour of Mr *Aislaby*, viz. for excepting from the Forfeiture, his Country-House, Garden, and Park, and also his Lady's Jewels and Household Goods; which was brought up and read, and a Debate arising thereupon, the same was adjourned to the next Day, when after several Speeches for and against the said Clause, it was agreed to without Division.

This being over, the remainder of the Sitting was spent in a Debate of near three Hours upon the Question, whether as the Bill stood, to vest the forfeited Estates in Trustees or to mulct the late Directors and others, at a certain Sum: A Clause for the Mulct was offered by Mr *Hutcheson*, who proposed a Million and half Sterling. Sir *Thomas Cross* moved for 1,400,000 *l.* and several long Speeches were made by Mr *Hungerford*, Mr *Loundes*, Mr *Yonge*, Serjeant *Pengelly*, the Attorney-General, and Mr R—— W——, Mr *Lechmere*, Mr *Milner*, Sir *John Eyles*, Mr *Lade*, and some others, who were most of them for the Mulct; but not agreeing upon the Sum, the Debate was adjourned to the *Monday* following.

July 3. Sir *John Eyles* proposed that a Clause for vesting the Estates of the forfeiting Persons in themselves, and only laying a Mulct upon them, might be read, which being done accordingly, Sir *Thomas Cross* spoke to it, and suggested, that it were more Advantageous to the publick, either to mulct the Directors, or to allow them 15 *per Cent.* out of their Estates for prompt Payment; but this being warmly opposed by Mr *Jessop*, Mr *Milner*, Sir *Nathaniel Gould*, and the Lord *Molesworth*, the Motion for reading the said Clause a second time was rejected.

July 5. Mr *Farrer* from the Grand Committee on publick Credit, reported several Resolutions, which (with an Amendment to one of them) were agreed unto by the House as follows, viz.

I. That all Contracts for the Sale or Purchase of Subscriptions or Stock of the South Sea Company or any other Company or Corporation, or pretended Company or Corporation, which shall be unperformed or not compounded on or before the 29th Day of *September* next, be entered

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entered in Books to be kept, for that Purpose by the respective Companies or Corporations, before the 1st Day of November next, or else to be void; and that such Entries shall express for whose Use and Benefit such Contracts were made.

II. That no special Bail be required in any Action brought or to be brought upon any Contract made since the 1st Day of December 1719, and before the 1st Day of December 1720, for the Sale or Purchase of any Subscription or Stock of the South Sea Company, or any other Company or Corporation or pretended Company or Corporation.

III. That no Execution be awarded upon any Judgment obtained or to be obtained in any Action brought, or to be brought upon any Contract, for the Sale or Purchase of any Subscription or Stock of the South Sea Company, or any other Company or Corporation, or pretended Company or Corporation until the end of the Session of Parliament, which shall be next after the 29th Day of September next.

IV. That all Contracts for the Sale or Purchase of any Subscription or Stock of the South Sea Company, or any other Company or Corporation, which shall be unperformed or not compounded on or before the 29th Day of September next, where the Seller, or the Person on whose Behalf such Contract was made, was not, at the time of such Contract, or within a time to be limited, actually possessed of, or intitled to such Subscription or Stock, shall be declared null and void.

July 7. The Sufferers Bill was read a third time, with a new Title, viz. *A Bill for raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, Directors, &c.* which, with other Amendments was passed and sent up to the Lords by Mr Clayton. After the third reading over of the whole Bill, which took up above two Hours, Mr Milner proposed a Rider to be added to it, importing that the Household Goods, Plate, Linnen, &c. of the Directors might be excepted out of the Bill; but his Motion was rejected with Disdain, which prevented the offering of some others that were ready to be proposed in Favour of the late Directors; one in particular, to impower them to compound such Debts as were owing to them either at Home or Abroad.

In the mean time the House of Peers

also continued their Examination of the South Sea Directors and their Agents, and on the 12th of January resolved that the Directors of the South Sea Company, in the Loans made by them upon the Stock and Subscriptions have been Guilty of a Breach of Trust, and ought out of their own private Estates, to make good whatever Loss the Company may sustain thereby.

January 22. A Petition of the Sub-Governor, Deputy-Governor, and the Directors of the South Sea Company, was read, praying to be heard by their Council, as to the Bill brought up Yesterday from the Commons, for restraining the Petitioners from going out of the Kingdom, &c. The Bill was read a second time and committed to a Committee of the whole House on Monday; then it being proposed, that the intent of the Bill being to prevent the Petitioners from withdrawing their Persons and Effects in order to their making Satisfaction for the notorious Breach of Trust which they have already appeared Guilty of, and which they do not deny or excuse in their Petition, that therefore their Petition be rejected; and the Question being put upon the said Proposition, it was resolved in the Affirmative. After this it was ordered, that the Brokers do lay before the House an account of all the Stock and Subscriptions bought or sold by them for any of the Officers of the Treasury or Exchequer, or any in Trust for them, or any of them, to the best of their Knowledge and Belief, since Michaelmas 1719.

On the 26th of January, their Lordships resolved that the taking in of Stock, the transferring of Stock to the South Sea Company, the giving Credit for the same without a valuable Consideration actually paid, or sufficiently secured, or the purchasing Stock by any Director or Agent of the South Sea Company, for the Use or Benefit of any Person in the Administration, or any Member of either House of Parliament, during such time as the late Bill relating to the South Sea Company was depending last Year in Parliament, was a notorious and dangerous Corruption.

On the last Day of January, it was also resolved, that the Directors of the South Sea Company having ordered great Quantities of Stock to be bought for the Service of the Company, when Stock was at very high Prices, under pretence of keep-

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ing up the Price of Stock; and at the same time, several of the Directors, and other Officers belonging to the Company, having in a clandestine Manner sold their own Stock to the Company, such Directors and Officers were thereby Guilty of a notorious Fraud and Breach of Trust, and their so doing was one great Cause of the unhappy turn of Affair that has so much affected the publick Credit.

On the 2d of February, the Lords in a Committee, came to the following Resolutions, viz.

I. That the Practice of Contracting begun so early as in January 1719, by Sir John Blunt and John Grigsby, for the refusal of the next *Midsummer* Dividend, in consideration of five Shillings *per Cent.* only paid, and of the farther Sum of 3 *l.* to be paid if they should call for such Dividend; and their procuring an Appointment of 10 *l. per Cent.* to be afterwards made as the *Midsummer* Dividend, which before that time had never exceeded the Rate of 3 *l. per Cent.* for one half Year, was a gross Fraud in respect of the several Persons so contracted with, and calculated to promote their farther unjust Designs, which have been since notoriously put in Practice, to the great Detriment of the Publick, and to the manifest Oppression of great Numbers of his Majesty's Subjects; and was one of the Causes of the unhappy turn of Affairs, which has so much affected the publick Credit.

II. That the declaring the *Midsummer* Dividend by the Directors of the South Sea Company upon South Sea Stock, to be in Stock, notwithstanding, before that Time, they had received great Sums of Money, more than sufficient to answer a reasonable Dividend in Specie, was calculated to put an imaginary Value on the said Stock, and was one of the Causes of the unhappy turn of Affairs, &c.

III. That the Practice of some of the Directors of the South Sea Company, and their Officers, in giving out large Premiums for the Refusal of Stock at very high Prices, was a Fraudulent Artifice to raise the Price of Stock far above the Value they knew it could bear, and was one other Cause, &c.

IV. That the contriving and promoting the third Subscription to increase the Capital Stock of the South Sea Company, at the extravagant Rate of 1000 *per Cent.* for so great a Sum as five Millions, in order to give an exorbitant Rise to the

said Stock, was fraudulently calculated to answer the ends of particular Persons, was a notorious Cheat on the Publick, and one other great Cause, &c.

V. That the Declaration or Appointment whilst the Stock was declining of 30 *per Cent.* to be paid for the half Year's Dividend on the South Sea Stock at Christmas 1720, and of a Sum not less than 50 *per Cent. per Annum*, for not less than 12 Years, were vile Artifices used by the Directors to delude his Majesty's good Subjects, by possessing them with false Notions of the Value of the Stock, and in Consequence thereof, to encourage them to buy at excessive Rates, as well as to prevent their selling out; to the end the Directors themselves, and their Confederates, might have the better Opportunity to sell their own Stock at exorbitant Prices; by which means many of his Majesty's faithful Subjects have been greatly impoverished; but the Directors, and those in Confederacy with them, have gained to themselves an immense Wealth, which was one other Cause of the unhappy turn of Affairs which has so much affected the publick Credit.

On the 4th of February, Sir John Blunt was examined, and asked, who in the Administration, or what Member of either House of Parliament, had any Stock of the South Sea Company? He answered, but to two, and would go no farther, saying, that he had given a full relation to the Secret Committee of the House of Commons, and he hoped their Lordships would excuse him, for that his Memory not being good, he might by that means contradict himself. Then he was ordered to be sworn, which he refused. Then he was ordered to withdraw. Soon after he desired to be called in, which was granted, and he was ordered again to be sworn, but he refused; their Lordships asked him, the reason why he desired to be called in, he said, he did not know what he did, for that he was in great Confusion. Whereupon their Lordships adjourned the farther Consideration of that matter to Tuesday, when Sir John was ordered to attend again, as also the Directors and their Officers, with Mr Waller.

Three Days after (February 7) the House of Lords proceeded to take into Consideration the Behaviour of Sir John Blunt at the Bar on Saturday, and came to the following Resolutions.

That

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That Sir John Blunt having been asked several Questions by the Committee of the whole House, and having not only prevaricated in such Examination, but having refused to give any Answer to several material Questions, and being thereupon required to be examined before this House at the Bar, and there, out of some evil Intention, obstinately refusing to take his Oath, in order to his Examination, is Guilty of the highest Contempt of this House, manifestly attending to defeat all Parliamentary Enquiries and Examinations, and of dangerous Consequence to the Constitution.

Sir John Fellows, Sir Robert Chaplin, and Mr Eyles were asked, whether they knew or heard of any Person in the Administration or in the King's Service, or any Member of either House of Parliament, who had any Stock given to him or promised to, or taken in for him, and also to some other Questions, and their Answers were taken down in Writing, and signed by them.

On the 9th of February, the House being moved that an humble Address be presented to his Majesty, to return the Thanks of this House to his Majesty, for the Measures which his Majesty had already caused to be taken, for the securing the Person of Mr Robert Knight, late Cashier of the South Sea Company; and this House being informed that the said Knight was in Custody in the Territories of the Emperor, humbly beseech his Majesty, that he will be pleased to make the utmost pressing Instances to the Emperor, that the said Knight may be secured, and delivered up to such Persons as his Majesty shall appoint, and brought over to England.

Accordingly in the Afternoon the Address was presented.

The next Day (February 10) the five late Directors in Custody of the Black Rod, delivered a Petition praying to be discharged, having given Security, which was ordered accordingly, paying their Fees.

On the 15th of February, the Lords in a Committee of the whole House, having made their Report as to the Proceedings of the South Sea Company. The House agreed to the same, and ordered the said Report to be entered into the Journals of the House.

Three Days after (February 18) a Proposition was made in the House, that the taking Stock of the South Sea Company

at 400, was injurious to the Proprietors of the South Sea Company; but it was disagreed to.

The Particulars of Sir John Blunt's Examination on the 21st of February, are as follow, viz.

The House was put into a Committee to take into farther Consideration, the Causes of the unhappy turn of Affairs, that has so much affected the publick Credit.

And Sir John Blunt being called in and shewed the Book of the Account of Stock sold, was asked if it contained a true Account; he said, he never saw a true Account of Stock sold, and in one place his Name being mentioned, he says, he does not know he sold that Stock. And being asked if he was of the Committee of Treasury; he answered, he was not; then being asked if he was of the Committee for taking Care of the Company's Interest, in relation to the Bill; he desired to refer himself to the Books of the Company.

Owned he might possibly be at the Court of Directors, when the Book of Stock sold was brought to them from the Committee of Treasury, but it was not read over there.

Being asked if he never sold any of the Stock to any Person in the Administration, or to any Member of either House of Parliament; he thereupon insisted, it was the right of an Englishman not to accuse himself, if it was a criminal Matter, if not, he would give the best answer he could.

He was directed to withdraw.

Proposed he be called in again, and told he must answer the Question; and thereupon he was called in, and asked accordingly; and says, he is sensible of the Weight of falling under the Displeasure of this House; but being required either peremptorily to answer, or withdraw, he acquainted the Committee he had been under a strict Examination already, before the Secret Committee of the Commons, and answered several Questions long and various, and would not be thought to prevaricate, having no Copy of what he had before sworn.

He then owned he had disposed of two Sums, 6000*l.* to Colonel Monroe at 275, and 1000*l.* to Mr Banks at 310, both of the House of Commons; he took Mr Banks's Note for the Payment of the Money, and gave him a Note that the Stock should be delivered, and

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and the Money was paid soon after it became due, and he gave it to Mr *Knight*; he (this Examinant) did not tell him whose Stock it was, wherefore Mr *Banks* thought it was his own, he believes; but has told him since the Session, it was the Company's Stock.

Sir *John* being asked if he offered to put another Name in his stead, he believed he did, and that Mr *Banks* said, it might stand in his own Name; he likewise said, he believed the Colonel did not know it was the Company's Stock, he having never told him it was, as he remembers.

Asked if the Practice of taking in Stock was resolved on by the Directors; and answers, he cannot say it, but owned they might have consulted about it.

He was directed to call to Memory all such as he transacted for, or what any other of the Directors did of that Kind.

And says, it is impossible for him to recollect; repeated that he had been under Examination before to this matter in another place, and therefore hopes to be excused answering, least his Evidence should differ.

And being again required to give an Account if other Directors did not consult him about matters of this Nature; he made the same excuse as to his being examined in another place, and declined to answer.

He is again directed to withdraw.

Proposed to call him in again, and ask him if he did not take Stock in for any Person in the Administration, he naming before only two of the House of Commons; and being called in and asked accordingly, says, he does not remember he did sell or take in any Stock for any Person in the Administration.

The last Question but one being again asked him, says, he would be very loath to offend this *August* Body, and would be glad if he could get a Copy of what he has sworn in another place; whereupon he was told, if he did not answer it would be reported so to the House; he hoped he should have Indulgence, declaring he would do nothing to create Offence.

Asked if he had any other Reason for his Refusal than that he has already given; and says, no other than his being examined by the Committee of the Commons; but it being insisted on he should answer, he still hoped for Indulgence in referring to his former Examination.

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He was then asked if any Person had advised or directed him directly or indirectly, to refuse to give an Account of what he was before asked, as to his taking in, or selling Stock to any in the Administration, or Members of either House, and says, no.

Asked whether he knows of any other Directors or their Officers, that have sold or taken in Stock for any in the Administration, or Members of either House, and says, he has before given an account, and again desires to refer to his Examination before the Secret Committee of the Commons.

Asked if he knew or had heard of any Stock taken in, or to be taken in for any Person in the Treasury; and declining to answer, he was peremptorily asked, whether he would answer or no; and and says, he is sensible of the Danger of falling under their Lordships Displeasure, and would gladly be excused.

Then it being insisted on he should withdraw; he withdrew accordingly.

Proposed this Matter be reported to the House, also proposed Sir *John Blunt* be again called in, whereupon a Motion being made, and the Question being put that the said Sir *John* be now called in, it was resolved in the Affirmative.

Called in accordingly, and asked the last Question, and says, he did not sell Stock to any of them, nor knows of any sold to any Person of the Treasury, and it was a hard thing to be put to speak upon Hearsay.

He is again directed to withdraw.

The Particulars of the Examinations of Sir John Fellows and Charles Joye, February 7th, are as follows, viz.

Sir *John Fellows* called in, and asked the following Question, *viz.* Do you know or have you heard of any Person in the Administration, or the King's Service, or that is a Member of either House of Parliament, that has had any Stock given to him, or promised him, or taken in for him? And answers, "I hope to be indulged so as not to be asked any Question, which may subject me to any Penalties upon my self: I have been very much in disorder in my Health, and am so still; have heard several Votes of Censure have been passed in my Absence, therefore beg to know how far I should answer; I have been much affected as to my Memory, and am in the Judgment of the Lords how far I should answer that may affect myself:

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self: I was in the Spring and in the Summer very much affected in my Head, and am so still.

Asked the above-mentioned Question, as to what he had heard; and says, I do not know of any; I cannot say I have heard of any in the Administration that have; I do not remember to have heard of any; I cannot charge my Memory with it; I do not know of any Person; I have been out of Order; I did not transact Affairs of that Nature with any Member of either House; I hope you'll give me time to consider, and refresh my Memory; your Lordships were pleased to indulge me before; I desire to be indulged to consider of this.

Mr *Joye* called in, and asked the same Question as Sir *John Fellows*; and answers, I do not know of any; I did hear Mr *Knight* say a great while ago, about nine Months ago, my Lord *Sunderland* was to have some; and asking him how could that be, who could give Order for it, Mr *Knight* said it was not for himself, but in Trust for some Friends; and since this Enquiry, asking Mr *Knight* if my Lord *Sunderland* had had any Stock, he answered very positively, no; whereupon I saying are you sure of it; he said he was sure of it, or Words to that Effect.

Asked if he knew what Quantity of Stock it was; and says, I cannot charge my Memory, whether Mr *Knight* should say 30000 *l.* or 100,000 *l.*

Asked whether any Body was present at those Discourses; and says, I apprehend there was no Body present that could hear them.

Asked what gave rise to their Discourse; and says Mr *Knight* spoke to me directly without previous Conversation the first time, the second time without any thing previous; I asked Mr *Knight* if my Lord *Sunderland* had had any Stock, and he said positively, no.

Asked whether upon the first Conversation any thing more passed; and says, To the best of my Remembrance I had no other Conversation with Mr *Knight* the first time.

Asked whether before the first Conversation any Dispute had past between Mr *Knight* and himself, for taking in Stock for any Person whatsoever; and says, some time before Mr *Knight* told me he thought it would be an advantageous thing for the Company to sell some Stock. I asked him if the Company had Stock; and he told me they had some,

about 25000 *l.* or 30,000 *l.* and 100,000 *l.* in his own Name; I had a second Conversation with him to the same purpose.

Asked if it was mentioned in the second Conversation that my Lord *Sunderland* was to have some; and says, it was not. I believe it was a Fortnight or three Weeks after.

Asked if he does not know my Lord *Teynbam* was charged with a Sum, as a Defaulter in the third Subscription; and says, I believe my Lord *Teynbam* is unjustly charged as a Defaulter by some Mistake or other, but do not know how it happens.

Asked if he had heard of any other Person for whom Stock was taken in; and says, Mr Secretary *Craggs*, Sir *John Fellows*, and my self, waited on the Dutchess of *Kendall*, acquainting her, that Mr *Knight* would provide her 8 or 10000 *l.* Stock; and her two Nieces 5000 *l.* a piece. As I remember the Countess of *Platen* 8 or 10000 *l.* at 150 per Cent. they paying the Money for it; which Mr *Knight* informed us was the Market Price.

Asked if he knew when it was; and says, I cannot recollect when it was; but asking Mr *Knight* some time since, whether these Ladies had the Stock, he assured me that the Dutchess and her two Nieces never had the Stock; as to the other Lady he spoke more doubtful.

Asked whether the Ladies had the Difference of the Stock; and says, I never heard that they had.

July 8. Mr *Clayton* carrying up the Bill to raise Money on the Estates of the Directors to the Lords, it was read once in that House; whereupon *John Aislaby*, Esq; presented a Petition to the House of Peers on the 10th Instant, praying to be heard by the Council, but his receiving of it was vehemently opposed by the Lord T——, who said, he had done more Mischief than any Man in the Nation. Some other Lords spoke more favourably of Mr *Aislaby*, particularly the E—— of S——, though not directly; and so the Petition was received, and ordered to lye on the Table. Then the Earl of *Clarendon* presented two Petitions of Sir *John Fellows* and Mr *Joye*; upon which arose a Debate on the Question, whether any Petitions from the Directors should be received? The Earl of *Sunderland* suggested that if they were all to be heard to every particular, they should sit till next Year: But though the Lords *Trevor*, *North* and *Grey*, and *Bathurst*, urged, that there was as much

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reason for receiving these Petitions as Mr Aislaby's, yet upon the Question, they were both rejected without dividing. Then there was another Petition presented in behalf of the late Mr Craggs's Daughters, which after a short Debate, was received, and ordered to lie on the Table; but three other Petitions from some of the Directors were rejected; after which, the Bill was read a second time, and committed for Thursday the 13th of July.

On the 12th of July, the Lords sent a Message to the Commons, to desire a present Conference in the painted Chamber, upon the subject Matter of the Bill to raise Money upon the Estates of the late Directors, &c. which being readily agreed, and the Managers on both sides met, the Lord Carleton, from those of the Lords, signified to those of the Commons, that their Lordships had commanded them to acquaint the House of Commons, that they had received the Bill before-mentioned from them, and found in it a Charge against John Aislaby, Esq; and the late James Craggs, Sen. Esq; and though they have read the Bill twice, yet their Lordships could not find in it the Reasons that induced the Commons to insert their Names in the said Bill, and therefore desired this Conference to know the matters of Fact upon which the said Bill was grounded, so far as the same related to Mr Aislaby and Mr Craggs.

The Managers being returned to their respective Houses, Mr Sloper, from those of the Commons, reported the said Conference to the House, who ordered the said Report to be taken into Consideration the next Day. This being done accordingly, it was resolved that such Members as were of the Committee of Secrecy, be appointed a Committee to state the matters of Fact, on which those parts of the Bill for relief of the South Sea Company were grounded, relating to Mr Aislaby and the late Mr Craggs.

July 14. Mr Clayton from the said Committee reported the State of the said matters of Fact, which being agreed to by the House, was the same Day delivered to the Lords at a Conference; the Paper relating to Mr Aislaby was to the Effect following, viz.

Your Lordships having desired at a Conference, that the Commons would acquaint your Lordships with the matter of Fact, upon which the Bill, (intituled

An Act for raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, Directors, Cashier, Deputy-Cashier, and Accountant of the South Sea Company, and of John Aislaby, Esq; and likewise of James Craggs, Sen. Esq; deceased, towards making good the great Loss and Damage sustained by the said Company, and for disabling such of the said Persons as are living to hold any Office or Place of Trust under the Crown, or to Sit or Vote in Parliament for the future; and for other purposes in the said Act expressed) so far as the same relates to the said John Aislaby, and to the said James Craggs, was grounded.

The Commons have commanded us to acquaint your Lordships, that the said matter of Fact, so suggested in the said Bill, are relative to the matters of Fact suggested in the former part of the Preamble of the said Bill, and will be explained thereby; and for your Lordships farther Satisfaction, we are commanded by the Commons to acquaint your Lordships, that the Bill, so far as it relates to the said John Aislaby, besides the Notoriety of Fact was grounded as well upon Proof, as the Confession of Mr Aislaby.

As to the Confession of Mr Aislaby, we are commanded by the Commons to affirm in their Names, to your Lordships that Mr Aislaby did in his Place confess, that upon the 3d and 19th Days of December 1719, 22,000 l. South Sea Stock was bought by Mr Knight, late Cashier of the South Sea Company, for him the said Mr Aislaby; and Mr Aislaby delivered in to the Commons a Paper of the Hand Writing of Mr Knight, containing part of an Account in the Words following.

1719	To South Sea Stock	l.	s.
Dec. 3.	bought 10000 l. at	12000	00
	123		
19	Bought more 12000 at	15180	00
	126 $\frac{1}{2}$		
	To $\frac{1}{2}$ per Cent. paid S.	27	10
	Stroke 12000 l.		
	To $\frac{1}{2}$ part 217 l. 10 l. lost	108	15
	as above		
24.	To Cash paid back	193	15
		27800	00
		l.	s.
Dec. 10.	Received in Bank	12300	00
	Notes.		
19	Received more in full	15500	00
		27800	00

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We are also commanded to acquaint your Lordships, that the Commons having received Information, that Mr *Francis Hawes* (one of the late Directors of the South Sea Company) had negotiated very large Sums for Mr *Aislaby*, and had had Dealings for a considerable time past in South Sea Stock with Mr *Aislaby*, and that an Account thereof was kept in a Book of which Mr *Aislaby* had a Duplicate; which Accounts were continued in that Book till some time in *November* last: The Commons did on the 7th Day of *March* last, order that the said Book should be laid before them the next Morning; at the making of which Order Mr *Aislaby* was present in his Place, and did not object nor offer any thing to the House that the same could not be complied with; but the next Day Mr *Aislaby* attending in his Place to make his Defence to the several matters objected to him, and obedience to that Order being required; Mr *Aislaby* declared, that Mr *Hawes* if called in, would tell the House, that Mr *Hawes*, with his own Hand, committed the said Book to the Fire; upon which Mr *Hawes* being called in and examined, said, that the said Book was in the beginning of *November* last, upon Mr *Aislaby's* pressing Instances, delivered up by him to Mr *Aislaby*, and that the same Book, and also the said Duplicate thereof, kept by Mr *Aislaby*, were both then burnt together, part by Mr *Aislaby*, and part by himself, at Mr *Aislaby's* Instances; and that the Proposal for burning them came from Mr *Aislaby*. And *Hawes* farther said, That he had not any Duplicate or Entry of what was contained in the said Book.

We are farther commanded to acquaint your Lordships, that upon the 20th of *January* 1719, the Commons resolved, that their House would upon the 22d of that Month, resolve it self into a Committee of the whole House, to consider of that part of his Majesty's Speech which related to the publick Debts, which the House did accordingly; and that afterwards, on the 27th of *January*, the House again resolved itself into the said Committee, and the Committee did then receive Proposals from the South Sea Company for paying the publick Debts.

As for Proof, the several Persons following, viz. Mr *Robert Surman*, Mr *Francis Hawes*, Mr *Matthew Weymond-fold*, *Thomas Weddall*, Esq; Sir *Theodore*

Janssen, Sir *Lambert Blackwell*, Mr *Webster*, Mr *Robert Knight*, Sir *John Fellows*, Sir *John Blunt*, Mr *John Faulconbridge*, *Edmond Waller*, Esq; Mr *Edward Gibbon*, Mr *Charles Joye*, were examined, and did, in the Opinions of the Commons, make out the Allegations in the said Bill relating to Mr *Aislaby*. As to the late Mr *Craggs*, the Manager of the Commons acquainted those of the Lords, that the Commons had positive Evidence, that great Quantities of South Sea Stock were taken in for him, without his paying for it, or giving sufficient Security. The Lord *Carleton* having made his report of this Conference to the House of Lords, their Lordships ordered it to be taken into Consideration the next Day, *July* 15, which being done accordingly, their Lordships after some Debate, made the following Orders, viz.

I. Ordered, That *John Aislaby*, Esq; be heard at the Bar of the House on *Tuesday* next, if he thinks fit.

II. That the Lieutenant of the *Tower* do bring Mr *Aislaby* to the Bar of the House on *Tuesday*.

III. That the Serjeant at Arms attending the House of Commons, do bring up Sir *John Blunt*, at the same time to be examined as a Witness.

IV. That a Message be sent to the House of Commons, to desire they would give leave that any of the Witnesses, that are Members of that House, may be examined in behalf of Mr *Aislaby*.

V. That the other Witnesses that are not Members of the House of Commons, do then attend to be examined.

VI. That *Edmond Waller*, Esq; do then attend to be examined.

Then the Petitions of the Executors of the late Mr *Craggs* being read, it was ordered that the said Petitions be referred to the Committee upon that Bill, and that they be then severally heard by their Council.

Then a Petition of *Robert Surman*, late Deputy-Cashier of the South Sea Company, was read and rejected: After which it was ordered that an humble Address be presented to his Majesty, praying that the several Papers relating to the Affairs of Mr *Aislaby*, may be laid before the House by the proper Officers. It was ordered likewise that all the Lords be summoned to attend the Service of the House on *Tuesday* next.

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On the 17th of July, the Lords sent a Message to the Commons, desiring that the Commons would give leave to *George Bailie, Esq; Richard Edgcombe, Esq; William Loundes, Esq; Charles Stanhope, Esq; Henry Kefall, Esq; William Clayton, Esq; Richard Hampden, Esq; George Delavell, Esq; Sir Robert Furness, Bart. and Edward Wortley, Esq;* (Members of their House) to attend their Lordships in order to be examined as Witnesses on behalf of *John Aislaby, Esq;* before the Committee of the whole House, to whom the Bill, intituled, *An Act for raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, Director, Cashier, Deputy-Cashier, and Accountant of the South Sea Company, and of John Aislaby, Esq; &c.* stands committed. Hereupon the Commons resolved to send an Answer to the said Message by Messengers of their own, and appointed a Committee to search Precedents in relation to the said Message.

July 18. The Lords sent another Message to the Commons, desiring that a Letter from *John Aislaby, Esq;* to Mr *Weymondfold*, dated the 1st of March 1719, brought before this House, and ordered to lie upon the Table, might be laid before their Lordships, and also, that the Lords had agreed to the Bill, intituled, *An Act for appointing Commissioners to examine, state, and determine the Debts due to the Army, without any Amendment.* Hereupon the Commons proceeded to take the first part of the said Message into Consideration; and the House taking notice, that there was no such Letter before the House as was mentioned in the said Message; but the House being acquainted, that such a Letter was delivered in to the late Committee of Secrecy, and was in the Hands of the Chairman of the said Committee; it was ordered, that the Clerk who attended the said Committee, do attend the Lords with the said Letter.

Then the Lord *Hinchinbroke* reported from the Committee appointed to search Precedents in relation to the Message sent from the Lords, desiring leave might be given to *George Bailie, Esq;* and several others (Members of this House) therein mentioned to attend their Lordships, in order to be examined as Witnesses, as is therein mentioned, that the Committee having searched the Journals of the House, had found several Precedents which they had directed him to report to

the House, and he read the same Report in his place, and afterwards delivered it in at the Table, where the same was read. Hereupon it was resolved, that *George Bailie, Esq; Richard Edgcombe, Esq; William Loundes, Esq; Charles Stanhope, Esq; Henry Kefall, Esq; William Clayton, Esq; Richard Hampden, Esq; George Delavell, Esq; Sir Robert Furness, Bart. and Edward Wortley, Esq;* (Members of this House) have leave to attend the Lords, in order to be examined concerning that part of the Bill mentioned in their Lordships Message of the 17th Instant, which relates to *John Aislaby, Esq;* if they thought fit; and a Message was sent to the Lords to acquaint them with this Resolution.

The same Day the Lords being met early, their Lordships went into a Committee upon the Directors Bill, and great Debates arose in relation to Mr *Aislaby*, how, and in what manner he and his Witnesses should be examined? The Lord *Harcourt* moved, that according to the established Rules of Justice and Equity, every one of them might be examined distinctly to every Article: But this was warmly opposed by the Lord *T——d*, who in a long Speech, alleged among other things, 'that such a Method would take up so much time, that it might endanger the Loss of the Bill, which was of the greatest Importance not only to the Kingdom, but to the King himself; for if the Bill should miscarry, no Man could tell what might be the Consequence.'

This was supported by the Earl of *S——d*, who likewise urged the Necessity of passing this Bill, to quiet the Minds of the People.

After some other Speeches, Mr *Aislaby* was called in, and, at his desire, Mr *Wedall*, Mr *Surman*, Sir *Lambert Blackwell*, Sir *John Blunt*, Sir *Theodore Janssen*, Mr *Faulconbridge*, Mr *Joye*, and Mr *Harves*, were severally called in, examined, and confronted with him. Sir *John Fellows*, in particular, declared he knew nothing of the Questions that were put to him by Mr *Aislaby*; and Sir *John Blunt* being asked who was the Contriver of the South Sea Scheme? Answered, it was none of his contriving, but the House of Commons: But Sir *Theodore Janssen*, being examined about the same matter, said, that he always took Sir *John Blunt* to be the Contriver, as certainly he was the chief Manager of the

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South Sea Scheme; and that for his own part, he never was let into the Secret of that Affair. Mr *Hawes* being examined as, to the burning of the Books of Account ingenuously owned the Fact; but said they were only Books of private Accounts between Mr *Aislaby* and himself; and which no ways concerned the Publick, or any other private Persons besides them two. Upon which Mr *Aislaby* said, He thought there was no hurt in burning Accounts that were made up and cancelled, and in which no Body had any Concern but Mr *Hawes* and himself. These Examinations being over, the Lord *Onslow* stood up, and asked, whether in the Opinion of their Lordships, any Mischief had happened to the Publick; and being answered by another Lord; Yes, without doubt, a great deal. But, added my Lord *Onslow*, it seems no Body has done it; Sir *John Blunt* is innocent; Sir *John Fellows* knows nothing of the matter; none of the Directors were let into the Secret; Mr *Aislaby* has done no hurt: Therefore, my Lords, I move to adjourn; which was done accordingly.

The next Day the Lords went again into a Committee upon that part of the Directors Bill relating to Mr *Aislaby*; and the Lord *Trevor* standing up, said, That from any Evidence that had yet appeared before them, he could not see that there was sufficient Ground to insert Mr *Aislaby's* Name in the Bill, and to involve him in the same Punishment with the Directors; and therefore, before they proceed any farther, he thought it necessary to send to the Secret Committee, to lay before them their whole Evidence. This Motion was seconded by the Lord *Harcourt*; but the same if carried, being like to embroil both Houses in dangerous Disputes, the Lord *Falmouth* moved for adjourning during Pleasure, which was agreed to. After a short Adjournment, their Lordships considered what was fit to be done in so nice and critical an Affair; and at last, agreed to call in and examine first Mr *Surman*, and after him Mr *Weymond*, the former of whom deposed, and the other confirmed, that Mr *Aislaby* had South Sea Stock transferred to him several times, to the Value of above 30,000 *l*. for which they knew not that he ever paid any Thing. After this Mr *Aislaby* was called in, and ordered to make his Defence, which he did in the following Speech.

My Lords,

I appear at your Lordships Bar by your Permission, to be heard, in my own Person against that part of the Bill, now depending before your Lordships which affects myself.

I have been long confined by Order of the House of Commons, under whose Displeasure I am unhappily fallen, for want, perhaps, of proper Talents to explain and support my own Innocence; for which reason I wish your Lordships would have indulged me so far as to have heard me by my Council in the usual manner, in a Cause where my Property, my Liberty, and, for ought I know, my Life may be concerned.

I must own, my Lords, I come very ill prepared to make my Defence against such parts of this long and perplexed Bill as seem to relate to me: It hath received so many Alterations in the tedious Passage it made through the other House, that it was impossible to learn how far I was affected by it, till it was past; and it hath made so quick a Progress in this House, that I have scarce been able to get a Copy of it, before I am brought before your Lordships to make my Defence against it.

It was some Surprise to me, my Lords, after what had passed in the House of Commons, and after a Bill had been ordered and was brought in, to make me discover my Effects, and to restrain me from going out of the Kingdom; I say, it was some Surprise to me to find my self translated all on a sudden into this Bill against the Directors, under the new-fashioned Term of Consolidation, without any new Offence given, or Cause assigned that is fit to be mentioned in this Place. However my Lords, I now find my self tack'd to them and their unhappy Fate.

My Lords, it concerns me much to know the Cause of this extraordinary Proceeding, the Reasons of these cruel and new-invented Punishments, and the Facts that are to make out the Crimes alledged against me in the Preamble of this Bill.

I have carefully perus'd and examined it, and enquired into all the Steps it has taken since I was heard in my Place in the House of Commons against a Charge contained in the Report of the

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' Secret Committee, and I find nothing
' but what is new and extraordinary
' throughout the whole. I was heard,
' my Lords, I say upon the Report of
' the Secret Committee, containing many
' loose and uncertain Facts as to me, and
' as it seems innocent, or ineffectual to
' any one besides.

' I thought I had given entire Satisfac-
' tion to that Assembly of my Innocence,
' when I found it was the Pleasure of the
' House that I should withdraw before any
' Question was moved or stated upon Paper
' as is usual; it was impossible therefore to
' know my Crimes or the Facts upon which
' they were grounded, so as to be able to make
' a proper Defence there before I withdrew,
' though I had been very well prepared to
' do it, as I think I was.

' But, my Lords, as this never happened
' to any Commoner before; so my Lords,
' in the Warrant by which I was committed to
' the *Tower*, I find no Cause assigned for my
' Commitment, as has always been practised in
' the like Cases.

' Thus far, my Lords, I was at a loss
' even for my Crimes; but the next Day the
' Votes of the House of Commons presented me
' with a View of many extraordinary Crimes
' contained in several Resolutions: Crimes which
' my Soul abhors, and of which my Lords, I do
' at this Place, and at this Bar, declare I am
' entirely innocent. I saw in the same Votes
' an Order for a Bill to be brought in to enquire
' into my Estate, &c. I perceived that Bill to
' make a slow Progress for some time, till from
' some fresh Displeasure conceived against me,
' it changed its Shape at once, and became a
' Bill of Punishment, and not of Enquiry; or at
' least of Enquiry as in Cases of Felons
' Convict, though I had never had any Tryal.

' This way of dealing with an *English* Subject,
' is unknown to the Laws of *England*; I say,
' my Lords, first to punish, and then enquire,
' the Law abhors.

' However, my Lords, I thought myself
' sure of the eleven Resolutions contained in
' the Votes of the House of Commons, as the
' ground of the Charge against me; Resolutions
' that have been sent abroad, and have made
' me the Object of publick Odium throughout
' the Kingdom. I have prepared myself to
' answer to this Charge

' upon every Article. But here, my Lords,
' I found myself again disappointed; and these
' very Articles for which I had been branded,
' expelled, and committed to the *Tower* for so
' many Months, disappeared at once, and were
' (if Fame be not a Lyar) rejected by one of
' the very Persons that moved them, as so many
' Loopholes through which an innocent Man
' might escape.

' So here, my Lords, I am at a Loss again;
' the Punishments are enacted; the most cruel
' torturing Punishments, before any Charge is
' made, or any Facts alledged, and at last it is
' sent up to your Lordships with a Charge of
' Crimes, without any Facts at all to support that
' Charge. Give me leave, my Lords, to say,
' that this, above all the other extraordinary
' Steps, is most new and unprecedented. An
' Attainder like this, without any legal Charge
' in it, tacked to another Bill that *must* pass,
' is a complicated Mischief: An Attainder of
' itself is uncommon and generally abhorred:
' *An Attainder tacked is entirely new and unparliamentary*: An Attainder
' without Facts ascertained, is not only new and
' dangerous, but against the very Principles of
' Justice, and the Laws of the Land in all
' Cases. For this Reason, my Lords, I have
' humbly represented to you the Difficulties I
' lay under in respect to my Defence from the
' Uncertainty of my Charge, for want of Facts
' stated to support it, and without which it is
' properly no Charge at all.

' Your Lordships have thought fit to desire,
' at a Conference with the Commons, to have
' this Defect supplied; and they have accordingly
' delivered to your Lordships a Paper, a Copy
' whereof you have been pleased to give me, in
' order to my Defence, which I therefore take
' leave to read to your Lordships.

Here the Paper was read.

' My Lords, upon Perusal of this Paper, I
' find only two Facts mentioned, which, if proved,
' are no Crimes, and of no relation to the
' Preamble of the Bill; for as in the Preamble
' there were Crimes alledged without Facts, so
' in this Paper there are Facts without Crimes:
' Your Lordships upon this extraordinary
' Occasion desired this Conference with the
' Commons, in order to be informed of the
' Facts that were the ground of their Charge.
' They have been

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' been pleased to refer your Lordships to
' that part of the Preamble relating to
' the Directors, by which they say the
' Charge against me is to be explained.
' I have examined this part of the Pre-
' amble, and am entirely at a Loss to
' find one Fact stated in it; the whole is
' general and most uncertain, and amounts
' to no Charge at all: That part of the
' Preamble relating to me, is so far
' from being explained by it, that it is
' made more perplexed and unintelligi-
' ble.

' My Lords, it is a strange Circum-
' stance that attends my Case: I stand
' here accused and ready to make my
' Defence before your Lordships my
' Judges. Your Lordships are at a Loss
' to know upon what Facts to try me;
' you have enquired of the Commons my
' Accusers and are no better informed;
' but on my part, my Lords, it is yet
' more extraordinary; the Accused is put
' under the Necessity to find out Facts to
' support the Charge of his Accusers.
' Was any Proceeding like this ever
' known before? No, my Lords. The
' Bill of Attainder against my Lord *Straf-*
' *ford* was extorted from the Legislature
' by Force and Violence, and, in some
' respect like this, under Colour of ap-
' peasing the deluded People. Vain Im-
' agination! This Concession of your An-
' cestors made way for all the Miseries
' that followed. But cruel and unjust as
' it was, there were Facts stated in that
' Bill to charge that noble Lord, and his
' Accusers came like Men to this Bar to
' make them good; but where are my
' Accusers, my Lords? Where are their
' Facts? And where is their Evidence?
' Was there ever any Accusation that pro-
' ceeded from a Secret Committee before,
' that was not made good at this Bar by
' those who were supposed to know the
' Facts best, and had obliged the Pub-
' lick with their Discoveries? Why do
' they decline to give your Lordships and
' the Publick this Satisfaction? My Lords,
' I find, to save this Trouble they refer
' you to the Notoriety of the Facts:
' Strange Notoriety of Facts, that are
' not yet revealed and of which there is
' no Evidence. Was this Expression
' ever used before at any Conference?
' In any Act of Parliament? Or did it
' ever approach this Bar before? Pray,
' my Lords what does it mean? If it
' means common Fame or publick Cla-
' mour, Thanks to the Arts of my Enc-

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' mies, I have had my full Share, and
' felt the cruel Effects of it: But if Fame
' is to be a Guide in judicial Proceedings,
' and in Criminal Cases, there is no Head
' safe, we are all in the Power of Whif-
' pers and Defamers. But has publick
' Fame ever been thought sufficient to
' Conviction? No, my Lords, publick
' Fame has been said to be a ground of
' Enquiry, but never of Condemnation.
' The Commons in the Case of the Duke
' of *Buckingham*, 1 *Car. I.* did, at the
' Instance of Dr *Turner*, declare that
' common Fame was a good ground of
' Enquiry or Presentment; but as this
' was complained of by the Crown as
' an unparliamentary Proceeding, the
' Commons in their Remonstrance a lit-
' tle time after, receded from this Pre-
' tence, and affirmed their Proceedings
' to be grounded upon their own Know-
' ledge or Proof, by the Examination of
' Witnesses or other Evidence; and in
' every Article of their Accusation the
' particular Facts are expressed. But this
' is not my Case, my Lords; I see no
' Facts charged upon me, I hear of none;
' it is in vain to make a Defence against
' nothing; it is fighting with the Air.
' But since, my Lords, the Commons
' have recommended some Witnesses to
' your Lordships, who, they say, did, in
' their Opinion make out the Allegations
' in the Bill, pray let me examine what
' the Allegations in the Bill are; and how
' they were made out by the Witnesses
' who have been examined before your
' Lordships.

' My Lords, in that part of the Pre-
' amble of the Bill which charges me, it
' is alledged, that *John Aislaby*, Esq; late
' Chancellor and under Treasurer of the
' Exchequer, and one of the Commissio-
' ners of his Majesty's Treasury, and a
' Member of the House of Commons,
' in Breach of the great Trust in him
' reposed, and with a View to his own
' exorbitant Profit has combined with
' the said Directors of the South Sea
' Company in their pernicious Practices,
' and has been Guilty of most dangerous
' and infamous Corruption, to the Detri-
' ment of great Numbers of his Majesty's
' Subjects, and manifest Prejudice of the
' publick Credit, and of the Trade of
' this Kingdom.

' My Lords in considering this Charge,
' I am at a Loss to find in what Capacity
' I am accused of Breach of Trust. The
' Title of Chancellor of the Exchequer
' stands

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stands there, I suppose *Ornamenta Gratia*; it is an Office of great Honour and Dignity, but has no relation to this Affair, or to the Execution of the South Sea Scheme, nor is that Officer so much as mentioned in any Act of Parliament since the first Constitution of the Company; it is a distinct Office from the Treasury, and in some Instance without much Influence, tho' joined in Commission with that Board.

I must then stand accused as one of the Commissioners of the Treasury, or as a Member of Parliament, or both.

I flatter my self, my Lords, that I have acquitted my self in these two Capacities with the same Integrity and good Faith as the rest of my Brethren; nor can I understand how I could commit any one Fact in Breach of my Trust, as one of the Commissioners of the Treasury, without the Participation of at least two of the same Board.

I have perus'd the Acts of Parliament relating to the Execution of the South Sea Scheme, and desire they may be read, that it may be seen how far the Treasury were concerned, or were intrusted with any part of the Execution of the Scheme, that we may know wherein this Trust consisted and so have recourse to such Facts as may charge me and others with a Breach of it. My Lords, I know of nothing that concerns the Treasury in those Acts, but what relates to the making forth and issuing the Exchequer Bills to be lent to the Company, besides the Constitution of Commissioners relating to the taking in of the publick Debts, which Commission your Lordships have affirmed. And as to those Bills, my Lords, no Man has accused me, not Sir John Blunt himself; he tells you upon his Examination here, as he told the other House before, that he took it to be the Sense of the House of Commons, that the Company might lend out the Exchequer Bills upon their Stock, having been admitted to hear the Debates of the House upon that Occasion, and that they were therefore so lent out.

My Lord, there is not one Word more in all those Acts of Parliament that implies any farther Trust, nor is there any Power given or received to the Commissioners of the Treasury to direct or controul the Directors, but what has been literally pursued by the

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Treasury. Where then is this Breach of Trust in me, as one of the Commissioners of the Treasury? Is there any Trust reposed in me in any Capacity that makes me responsible to the South Sea Company? If not, how comes the Chancellor of the Exchequer, and one single Commissioner of the Treasury, to be confiscated for the use of some of his Fellow-Subjects for Breach of Trust?

If then this Breach of Trust is no where to be found, let us examine next, wherein I have combined with the late Directors in their pernicious Practices. By the Reference the Commons make to the matters of Fact, suggested in the former part of the Preamble of the Bill relating to the Directors, one might expect to find these Practices set forth there, in order to make out the Charge of which they stand accused.

My Lords, I have looked into this part of the Preamble relating to them, and find it is only said, that they, the Directors, under Colour of the late Act, have carried on many notorious, fraudulent, indirect Practices, contrary to the Intention of the said late Act, not only to the immense Loss of the Company, to seven Millions and upwards, but to the great Detriment of the Publick, &c. But the Particulars of these Practices are no where specify'd: I have heard, indeed, they once stood part of this Bill, but were afterwards left out as so many Incumbrances upon it; and if I may be allowed to take Notice of what the Commons upon Deliberation have suppress'd, I would acquaint your Lordships that that part of the Preamble of the Bill which relates to the pernicious Practices of the late Directors as tending to the immense Loss of the Company, to seven Millions and upwards was comprized in these Words, *viz. That the Directors have been Guilty of several Corruptions, Breaches of Trust, Frauds, and Abuses, by contriving the fictitious Stock of 574,500 l. and entering it in their Books to be sold for 1,213,575 l.*

That they also lent upon Stock or pretended Stock, contrary to the Resolutions of the Court of Directors, several Sums amounting to 943,631 l. over and above the 500,000 l. to which the Loans were restrained; and more, 406,903 l. over and above the Sums li-

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'mitted to be lent; and more, several
'Sums beyond what they were limited,
'which Excesses amount in the whole to
'3,746,467 l.

'That they also lent upon Subscrip-
'tion Receipts 2,219,089 l. without Au-
'thority from the Company, which
'Loans, or pretended Loans, upon the
'Stocks and Subscriptions amount in the
'whole to 5,965,556 l.

Fictitious Stock 1,213,575
Total on Stock and Subscrip- } 5,965,556
tion

7,179,131

'Here, my Lords, you have a plain
'Account of all the Directors pernicious
'Practices; let it now be enquired, what
'Evidence has been given to your Lord-
'ships, to make out my having com-
'bined with them in all, or any of those
'Practices.

'As to the first Article, in relation to
'their contriving the fictitious Stock of
'574,500 l. and entering it in their Books
'to be sold for 1,213,575 l. there is not
'one Word said by any of the Directors,
'that I was privy to it, or that they ever
'heard or suspected, or that there was
'even so much as a Whisper amongst
'them, that I had, or was to have any
'part of it; and the Secret Committee
'themselves, after having, in the most
'extraordinary, as well as the most so-
'lemn manner; examined them all to
'this Fact, were pleased to say, there
'was no such Charge against me.

'As this was the Fund for all the
'Corruption and the Source of all our
'Misfortunes, I think my self extreamly
'happy let my Fate be what it will, that
'I stand clear and acquitted, in the
'Judgment of my worst Enemies, of *this*
'*Criminal and cursed Transaction*. And
'as this was a Work of darkness that
'has not yet been perfectly brought to
'light, and as it was in its Nature such,
'as carried the greatest Secrecy and Secu-
'rity with it; and as I am the Person
'supposed to have been the Author of
'the Scheme, and the Director of the
'Directors, and one who commanded
'every thing, is it possible to imagine
'that I should neglect to take my Share
'of this mighty Harvest, and trust to
'the Secrecy of an infamous Broker, and
'the Hazard of an open Market?

'But notwithstanding the Secret Com-
'mittee, who spared no Pains in their

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'Enquiries relating to me, have not
'thought fit to Charge me upon this
'Head, but have entirely acquitted me;
'I find some Notice is taken of what Mr
'Surman had said concerning the green
'Book, wherein he saw my Name to an
'Account that was ballanced: Whatever
'Notice your Lordships are pleased to
'take of that Information, the Gentle-
'men of the Secret Committee knew
'better than to insist upon it in their
'Charge, since that Account is said to be
'after the Bill was past, and to be bal-
'lanced; and, consequently, I must
'have it to produce, unless by some ex-
'traordinary Accident, or Artifice, I
'should have lost it. But as Mr Surman
'has proved that Knight kept my Cash
'long before the Scheme took place, and
'was indebted to me for a great Sum in
'November 1719, so, my Lords, I de-
'clare I am not concerned how those
'Accounts are exposed, if they can pos-
'sibly be brought to light; and as I have
'this Account mentioned by Mr Surman
'to produce, if your Lordships require
'it, so I wish from the bottom of my
'Soul, that the green Book, so famous in
'Story, may be produced (as perhaps it
'may) before it be buried in Oblivion.

'The Directors, and others, examin-
'ed to the rest of the Articles, making
'up the seven Millions and upwards, do
'all declare, that I was not privy, or in
'any manner a Party to their Transac-
'tions, or in the least contributed to the
'Loss sustained by the Company, in any
'Article of that Account: As these Pro-
'ceedings were the chief, if not the only
'Causes of the Misfortunes of the Com-
'pany and the Publick, I am still ex-
'treamly at a Loss to know what the per-
'nicious Practices were that can make
'me an Accomplice or Confederate with
'the Directors.

'The selling of their own Stock and
'buying it for the Company, could not
'in this Nature be communicated to me,
'and has been denied by them all.

'The declaring the great Dividends at
'30 per Cent. for Christmas, and not less
'than 50 per Cent. for not less than
'twelve Years after, was a Transaction
'when I was in the North, and they all
'declare I knew nothing of it.

'The Additions to the first and second
'Subscriptions, and the Deficiencies of
'the third and fourth Subscriptions, are
'attested to be done without my Privy
'or Advice.

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' And as to the taking in any of the Subscriptions at what Price soever, Sir *Theodore Janssen*, and others, have told your Lordships, they were done at the Instances of Sir *John Blunt* solely, by starts and surprize, and agreed to the same Day, without sending to, or advising with Mr *Aislaby*, or any Body else.

' Here, my Lords, you have all the Facts and pernicious Practices with which the Directors are charged, either by the Resolutions of the Lords or Commons; and here is not one Witness that has been examined before your Lordships that hath not entirely acquitted me of any Combination with them, in these, or any other of their pernicious Practices. These are the Contents of this general Charge of the Commons against me, as far as I can collect them, and which have required more Pains to discover and put together, than it has done to answer them.

' I shall now proceed, my Lords, to examine the only two Facts which the Commons have thought fit to lay before your Lordships, and delivered at the Conference.

' The first of these is said to be grounded upon my own Confession in my Place in the House of Commons, viz. That on the 3d and 19th of December 1719, 22,000 *l.* South Sea Stock was bought by Mr *Knight*, late Cashier of the South Sea Company, for me; and that I delivered into the Commons a Paper of the Hand Writing of Mr *Knight*, containing part of an Account in the Words following.

	<i>l.</i>	<i>s.</i>
Dec. 3. } To South Sea Stock		
1719. } bought 10000 at { 12300 00		
	123	
19. Bought more 12000 <i>l.</i>		
at 126 $\frac{1}{2}$		15180 00
To $\frac{1}{2}$ per Cent. paid <i>S. Strade</i>		27 19
22000 <i>l.</i>		
To $\frac{1}{2}$ part 217 <i>l.</i> 10 <i>s.</i> lost		108 15
as above		
24. To Cash paid back		183 15
		<hr/>
		27800 00
		<hr/>
	<i>l.</i>	<i>s.</i>
Dec. 10. Received in Bank		
Notes		12300 00
19. Received more in full		15500 00
		<hr/>
		27800 00

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' My Lords, I have the greatest Honour and Regard for the House of Commons imaginable, and shall always pay the greatest Deference to every thing that proceeds from them; even their Censure, and my Misfortunes, I bear with Patience and Submission to their Authority; and as I am sensible their Displeasure was drawn upon me by unlucky Incidents, and want of Opportunity of understanding the Truth of my Case, so I doubt not but they will be pleased that I have this Opportunity of defending my Innocence, and clearing it from the Mistakes and general Prejudice under which I have been unhappily oppressed; nor can their Honour be concerned, or that of the Secret Committee, if I am acquitted by your Lordships of the Crimes laid to my Charge, if they appear to your Lordships to be ill-grounded; I shall therefore take the Liberty to say, I am extremely surprized to find the Commons make use of the Word *Confession* upon this Occasion. *Confession*, my Lords, implies Guilt, and is the Declaration of some Fact supposed to be criminal: But this is not my Case, nor, with Submission, is it the Fact; this Paper, my Lords, this Account proved by Mr *Surman*, and allowed by the House of Commons to be an Account of Stock bought and paid for with my own Money in the beginning of December 1719, was produced by me in the House of Commons in my own Justification, to prove a valuable Consideration in Mr *Knight's* Hands, and Security given for 20000 *l.* South Sea Stock bought the beginning of March following, and paid for by Mr *Knight*. This with other Effects of mine of great Value were proved to be in his Hands at that time, more than sufficient to answer the Value of the said 20000 *l.* Stock bought by my Order, by Mr *Weymondshold*, whereof, if any Doubt remain, I am ready to produce the most authentic Vouchers.

' This Paper, produced as Evidence by me against a Charge of Corruption, is now, by an unaccountable turn, made an Article of Corruption itself, or at least tending to support the Charge in the Preamble in some manner. I cannot very well guess what the Commons would infer from this Account, or what it tends to; I suppose it is meant to shew, that it was done with a View to the

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the Scheme which afterwards took place, and to my own exorbitant Gain, since they are pleased afterwards to subjoin this Observation: That upon the 20th of *January* 1719, the Commons resolved, that their House would upon the 22d of that Month, resolve itself into a Committee of the whole House, to consider of that part of his Majesty's Speech which related to the publick Debts, which the House did accordingly; and that afterwards on the 27th of *January*, the House again resolved itself into the said Committee, and the Committee did then receive Proposals from the South Sea Company for paying the publick Debts.

One would think that from this Observation, which the Commons themselves have made, there needs no other Proof to shew that the Stock bought in the beginning of *December* 1719, could not be bought with a View to the Scheme, that was not accepted till two Months after; and if it had been so it would have been no more than every Chancellor of the Exchequer had done at all times before me; nay, I may venture to affirm, it hath been looked upon as incumbent upon the Chancellor of the Exchequer and all the other Officers of the Revenue to encourage by their Example all publick Undertakings of this kind; and it must not be forgot that at the first Establishment of this very Company, the then Chancellor of the Exchequer, and several great Officers of State, did condescend to be Directors of this Company, which was never thought a Crime whether it was done with a View to their own Interest or not.

But, my Lords, I will shew you that this Stock was not bought with any such View; and if it were, that it does not make good any one part of the Charge in the Bill; for as it was bought with my own Money it could not be a Breach of Trust in any manner, nor could it be a dangerous and infamous Corruption, nor could it be in Confederacy with the Directors in their pernicious Practices which are described to have been committed by them under the Colour of the late Act, and therefore subsequent to it; nor was it bought with a View to my own exorbitant Profit, since it was not only two Months before the Commons accepted the Proposals of the South Sea Company, but

even before the Scheme was so much as communicated to me, and, as I have proved to your Lordships, was sold out again that very Morning the South Sea Company were resolved to out-bid the Bank, and carry their Point at all Hazards.

My Lords, I have proved to your Lordships, that at the same time that I bought this Stock in the South Sea Company, I bought very near the like Value in the Bank, and continued it there after I had sold out of the South Sea, which does not look like Partiality to the South Sea Scheme. I have shewn your Lordships, that immediately after the South Sea Proposals were accepted, I bought into the East-India Company, and not into the South Sea Company, which is some Proof that I had no great Faith in their Scheme, or Built upon it with a View to my own Profit: But to make it more evident that this Scheme was not founded by me in that Iniquity as is supposed, and that I had not those Views that are laid to my Charge. I have shewn your Lordships, that I was not the original Author or Promoter of this Scheme: I have proved by Sir *John Blunt*, that he first presented this Scheme to my Lord *Stanhope*, soon after his Majesty's return from *Hanover* in 1719. That my Lord *Stanhope* some time after communicated this Scheme to me, and desired me to talk with Sir *John Blunt* about it; and that accordingly, about the latter end of *December* 1719, I desired Mr *Clayton*, to meet Sir *John Blunt* and Mr *Knight* at my own House, to confer about it; which was the first time that I talked with Sir *John* upon that Subject.

So that my Lords, it is most evident that the Stock bought in the beginning of *December*, could not be bought with a View of Gain from this Scheme, as is suggested by the Commons in their Paper, since the very Scheme itself was not communicated to me till the latter end of *December*; and taking all the other Circumstances along with it, that have been explained to your Lordships, I am satisfied you must think, that the Commons could not have done me a greater Service, than by stating this Fact as the chief matter of their Accusation, which hath given me this Opportunity of clearing up some Mistakes and laying open some Facts that were not known or understood before.

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Thus having cleared up this matter to your Lordships, I shall proceed to answer the next and last Article laid to my Charge, as it was delivered by the Commons to your Lordships, in which they gave your Lordship an Account of a Transaction in their House relating to the cancelling some Accounts between Mr *Harves* and me. I do not find that the Commons made this a Charge against me in any of the Resolutions that Night they committed me to the *Tower*; but as this Story had the greatest Effect to inflame and raise a Prejudice against me in their House, so I doubt not but that it is laid before your Lordships in this solemn manner, with an Expectation that it should have the same Effect in this House.

My Lords, I know very well that many of my Judges in the other House, who acquitted me of every part of the Charge brought against me could not get over this slight, this ridiculous Incident. I must own, my Lords, my Conduct upon that Occasion was not so calm and circumspect as my Circumstances require; but it might have warmed a Man of a much more even Temper than myself, to see a most innocent Action represented in such a suspicious Light by the Secret Committee as to appear in some measure Criminal: And besides this my Lords, the Order mentioned at the Conference to have been made for me to produce these Accounts, was introduced in such a manner, as might surprize and shock the most weary Man alive; to be attacked as I was entering the House, and before I was got to my Place in a most unparliamentary Method, and by an unprecedented Motion, by one, who, of all Men living, had the least right to make that Demand, and who could furnish, if he pleased, from his own Books of Accounts, more matter of Enquiry, than all the other Accomptants put together. I should not have mentioned this, but that I see that Transaction taken notice of in the Paper delivered to your Lordships at the Conference.

The use that hath been made of this Story, has been to inflame and stir up the Minds of Men to believe that there were the greatest Secrets, the most criminal Matters, contained in these Books, and that they were cancelled or burnt in order to destroy Evidence. I own,

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my Lords, when this matter was presented upon me in the House of Commons, I treated it with Neglect and Indifference, as knowing my own Innocence and not dreaming of the criminal and false Construction that was afterwards put upon it: But since it has been so universally understood to my Prejudice, give me Leave, my Lords, in this place, to return my Thanks again to my Accusers that they have given me an Opportunity before the Supreme Court of Judicature of this Kingdom, to clear up this matter and to shew to the World, that there is nothing in this Story either criminal or suspicious.

I thank my Accusers, my Lords, for giving me this Opportunity of shewing the World that *there is a vast Difference between an Examination taken before your Lordships, and an Examination taken before the Secret Committee*, for it may very probably happen, that they may be mistaken in what relates to me, since every part of their Report hath been either rejected or dropt by the House of Commons, which related to any other Man living.

I perceive your Lordships took this matter first into your Consideration, as observing the Commons to lay the greatest Stress upon it. You have examined Mr *Harves* in the strictest manner, in relation to the nature of these Accounts, and the manner of cancelling them.

He has told your Lordships, that there was nothing criminal contained in those Accounts; that there was nothing in them relating to me as Chancellor of the Exchequer, nor to him as a Director of the South Sea Company, or as a Receiver of the Customs; that there was nothing in them that could be construed a Breach of Trust; nothing that could be called a Combination with the South Sea Directors, or had any relation to them; nothing that could be called Corruption or any thing like it. He says, he bought some Stock for me in *December* 1719, but that it was sold again in three or four Days after, for very small Profit: And lastly, he says, this Stock was bought and paid for with my own Money, and not with the publick Money, or the Company's Money. As to the manner of cancelling them, he says, it was done in *October* last, before the King's Return, and long before the Parliament met; that

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that I had long since passed my publick Accounts, viz. in April 1720, that those Accounts were passed at my pressing Instances in half the time that any of my Predecessors had passed theirs; that I had afterwards Daily solicited him to have those private Accounts made up and delivered, but that his Affairs would not permit him to do it till October last; that I had pressed him to deliver up these Accounts, not only long before the Stock fell, but before it rose; that these Accounts were cancelled, after I had given him a Discharge by mutual Consent; and that he believes it was done with a Design to conceal them from this Enquiry.

My Lords, this is the Evidence of Mr Hawes; and I do not wonder that your Lordships were under some Surprise, that a matter represented in so different a Light and with which my Enemies have made so much Noise and Clamour, should, at last, come out as a fair and indifferent Action, in which neither the Publick nor any private Person was concerned, and to have been done without a Design of concealing or covering any Fraud whatsoever.

There is something, my Lords, I must observe to you upon this Occasion, that makes me wonder how this Transaction came to be so much insisted on, unless it was to inflame more than to convince, and that is, my Lords, (as I humbly conceive) that in case these Books had been in Being, and there had been any thing criminal in them, or that might any way affect me to my Prejudice, your Lordships would not, as you are a Court of Justice, oblige me to produce them against my self; this is a fundamental Maxim in Law, and has never been broke through in the most violent and arbitrary Times. And the House of Lords in their Enquiries in 1640, were so tender of this great Principle of Law and Justice, that they made it a special Instruction to their Committees, that the Judges they had ordered to be examined, should not be examined upon any thing to accuse themselves. And the Commons during all the Enormities of those times, never broke through this Rule till they came to decide all things by the Sword: And therefore, my Lords, if these Accounts could not judicially be demanded of me, in Case they were in being, and contained any thing criminal in them, there can certainly

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ly be no Crime in my having disposed of them as I thought fit, especially if it be considered that they were my own private Books, no ways relating to me as a publick Accomptant, containing nothing in them criminal or affecting the Interest of any other Person.

I know, my Lords, very well, that in the Case of a Deed destroyed, if a Witness proves that there was in that Deed any Clause to the Advantage of a third Person, or to the Prejudice of him that destroyed it, such Clause shall be construed in the strongest manner against the Person that destroyed the Deed.

But this, my Lords, is not my Case, here is no Evidence produced to prove any thing criminal in these Accounts, but the contrary; so that in Law and Equity they would be taken as Accounts subsisting in my Favour, though unadvisedly cancelled. Mr Hawes's Testimony relating to the Accounts in these Books, affords your Lordships another Instance, that may satisfy your Lordships that I had no View to the South Sea Scheme in my Transactions contained in those Books; since it appears by his Evidence concerning the Stocks mentioned in them, that I parted with it before the Scheme took place: But let that be as it will, can any Man call it a criminal Circumstance to commit the Papers, after they were cancelled to the Fire? No, my Lords, it was a legal and an innocent Action.

Thus, my Lords, I have gone through every part of the Charge against me, either as it has been stated by the Commons, or fallen under the Examination of your Lordships; and I hope there is nothing omitted in my Defence, that is necessary to prove my Innocence to the Satisfaction of all that hear me; but if the least Doubt remain with your Lordships, in relation to any one Fact charged upon me, I beg I may have the Opportunity before I go from this Bar, of clearing it up, which I do not doubt but to do by the plainest Proof in the World.

If therefore the Charge of the Commons in the Preamble of this Bill cannot be supported in any part of it by any one Fact whatsoever, can your Lordships ever be induced to consent to such parts of the Bill as subject me to an arbitrary Jurisdiction, and cruel and new invented Punishments? My Lords,

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'the Laws are our Birthrights, and the
'Guide and Measure of all our Actions;
'but where is the Law that I have
'broken? Or indeed, where is the Crime
'or the Fact that is supposed to be a
'Crime, and which is to be punished by
'a Law made *ex post facto*? A Law, my
'Lords, that dispenses with the very
'Forms of Judicature, and sets up a Tri-
'bunal unheard of before in any free
'Country!

'I believe, my Lords, this Bill is very
'little understood by most of the Gen-
'tlemen of the House of Commons,
'and, perhaps your Lordships may think
'the Penalties of this Bill less severe, at
'least in respect of me, than they are;
'but your Lordships will give me leave
'to explain that matter to you in such a
'manner, that you may better judge
'whether I have committed any Offence
'equal to such severe and ignominious
'Punishments.

'My Lords, as the Bill now stands all
'my personal Estate, and great part of my
'real Estate, which belonged to me on
'the 1st of June 1720, or at any time
'since, is vested in the Trustees to be sold
'and applyed to the Uses of this Act;
'so that I am stript at once of every Shil-
'ling but what is settled upon my Family
'and wherein I am but Tenant for Life.
'After this my Lords, I am obliged to
'give 100,000*l.* Security by Recogni-
'zance, with two other Persons to be
'bound for me in 25,000*l.* a piece, that
'I shall not depart the Kingdom before
'a certain time. This was not the Case
'of the Directors, but it is mine, that
'after my Estate is taken from me, I am
'obliged to give Security to the Value of
'ten times more than I am worth. Is
'there a Friend in the World that can be-
'lieve I am Guilty of the least thing laid
'to my Charge, that will be Security for
'me in this Situation? Or have I any
'Counter-Security to give but the little
'Stock of Credit and Reputation that
'this Bill cannot take way? But some
'Gentlemen think, and my Enemies
'boast, that they have been very boun-
'tiful to me, and that they have made
'me easy. If that be the Case my Lords,
'what occasion is there to suspect I should
'fly from my Country, my Friends, and
'my Estate? But if my Case be oth-
'erwise, if I am worse used than any of
'the Directors, if I am more branded
'and exposed than any other Person in
'this Bill, who will not be apt to judge

'from what has passed, that the same
'Spirit that has brought me to this may
'be carried to greater Extremity. Am I
'not by this Bill put into the Power of
'every Villain, of this very Broker here,
'whose Evidence is his Merit? Am I not
'obliged to live in the Dread and at the
'Mercy of every Informer like him?
'Others may think, and the Directors,
'perhaps, may think Life under these
'Circumstances to be tolerable; but to
'me my Lords, there can be no Com-
'fort in it but what my own Innocence
'secures to me.

'There are some Clauses in the Bill
'that oblige me to give in Inventories of
'my real and personal Estate from such
'times, and in such a manner, as is im-
'possible to be complied with, having
'never kept my Accounts in such a Method
'as those that are bred up to Trade and
'Figures are used to do; and I believe very
'few Gentlemen in the Kingdom would
'in their own Cases think this practicable.
'But if my Accounts had been regularly
'kept, as I have no Clerks nor Book-
'keepers to swear to them, so I do not
'know of what use it could be to pro-
'duce them to these Trustees, in case they
'are minded to dispute them; for though
'they are entituled only to the *In-*
'crementum of my Estate since the 1st
'of October 1718, yet as they are to be
'vested with the whole of my personal and
'great part of my real Estate; and as I
'am to deliver up all my Writings, Papers,
'and Accounts to them, it is impossible
'to make out any Claim before them in
'any manner whatsoever. And pray,
'my Lords, observe the Difficulties or
'Absurdities of this Case: Here is a Court
'erected of nine Persons with absolute
'and unlimited Powers; some of these
'Gentlemen perhaps have been Accusers,
'but all of them are to be Judges and
'Parties; my Estate and my Title is to
'be put into their Hands, and then I am
'to claim what can never be made out
'but by the very Writings in their Pos-
'session. Was ever such a Jurisdiction
'established upon Earth before, where
'Laws were in use? No, my Lords, the
'original Cause of all Laws and of civil
'Government, was to prevent Men's
'judging for themselves, and to oblige
'them to submit all disputable Matters
'to indifferent Parties: This is in a par-
'ticular manner the Basis of all our Laws,
'and it is the only Pillar by which Justice
'and Equity can be supported.

'But

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But, my Lords, there is another Circumstance, which in the Situation of my Affairs, makes any Claim impracticable; that is, my Lords, the *Onus probandi* lies in a great Measure upon me, which, in regard to my personal Estate is impossible, unless my Judges are willing to be guided by the Circumstances of my Affairs and my own Testimony. For Instance, my Lords, it appears to your Lordships, that there was an Account between Mr *Hawes* and me for 7 Years past, wherein most of my Effects were contained; and he says, about 30000 *l.* South Sea Stock was bought before the Scheme took place, with my own Money: It appears by the Paper delivered at the Conference, that I bought by Mr *Knight*, two Months before the South Sea Proposals took place, 22000 *l.* South Sea Stock, and had several other Effects in his Hands; and Mr *Surman* has proved that Mr *Knight* told him, that he ow'd me a great Sum of Money long before this, having kept my Cash for two or three Years before. none of which can be supposed to be the Increase of my Estate since *October* 1718. How is it possible, my Lords, I can prove one Word of it? As to Mr *Knight*, it is not expected I should produce him, and as for Mr *Hawes* he says, these Accounts are cancelled, and he has made no other Entry of them. How is it possible then, to prove any thing, especially to the Satisfaction of my Judges, who are also Parties? For it must be to their Satisfaction, and not otherwise, the Bill says, that my Proofs must be made. If they are not pleased to be satisfied, then, indeed, I may appeal to another Court erected for this purpose, viz. to the Judges in *Westminster-Hall*, who will expect legal Evidence to maintain an Appeal, which in my Case my Lords, I have shewn is not to be done.

I cannot but take notice of one Punishment more that seems to be odly suited to that part of my Accusation relating to the cancelling of my Accounts with Mr *Hawes*; the Commons for want of having that matter cleared up as it has been before your Lordships have thought that Transaction a great Offence; and the Punishment of that Offence is, that I shall make up those very Accounts which my Accusers say are destroyed, and which are no more

in Being: Indeed I must own they have been so kind as to exempt me from all Danger on this Head for the future, by disabling me from having any more Accounts to make up.

Since I have spoke of disabling, my Lords, I beg leave to take notice of a Clause that contains a new and dangerous Punishment; that was lately added to this Bill; that is, my Lords, a Clause for incapacitating the late Sub-Governor, &c. from sitting or voting in either House of Parliament, or from holding any Office or Place of Trust under his Majesty, his Heirs or Successors.

My Lords, I must presume to say, from some little Incidents that have happened this Clause was not the Punishment of a South Sea Sin, and these unfortunate Men were only thrown in to make the Draught go down the better. But how consistent this Punishment may be with good Policy and a free Government I submit to your Lordships Consideration.

Here are no less than thirty six Fellow-Subjects cut off at one Stroke from the Common-Wealth, and stript of the Birthrights and Privileges of *Englishmen*; I mention it to your Lordships as you are the Guardians of those Rights and Privileges, that you may oppose an Attempt in it's first instance, that seems to threaten your Constitution, and shake even *Magna Charta* it self. No Man since we were a Nation, has been so bold as to think of creating so dangerous a Precedent, which if it had been established sooner, had before this Day exceedingly thinned the Ranks of our ablest Patriots.

But my Lords if this Bill must pass in any manner as to me, I am not concerned as to the Effects of this Clause. I say, if this Bill pass, (as they say it must) my Ambition is at an end; it is too late for me to begin the World again; but an ill-natured Man would be pleased at his going off the Stage, to leave this Legacy to those that come after him. Precedents, my Lords will advance, and this Precedent will not sleep. The Violence of the Times, and the Rage of Parties, is too great to drop a Precedent so useful as this will be.

I shall trouble your Lordships no more than to say, that if I must be sacrificed to appease the Fury of the misguided Multitude, I heartily wish it may

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' may have that Effect, which will be some
' Alleviation to my Misfortunes. But in
' vain have the Guilty appeared against
' me! In vain have they stirred up the
' Nation for one Man's Ruin; my Fall
' will screen or secure no Man; if I am
' innocent, there is nothing can make
' me guilty. Let the Storm rage never
' so high at present, *Englishmen* will
' grow calm by Degrees, and Truth is
' great and will prevail.'

Notwithstanding this laboured and
plausible Speech, their Lordships appear-
ed still of Opinion that Mr *Aislaby* had
a great Share in the Execution of the
South Sea Scheme: However the Lords
indulged him so far as to order such other
Witnesses as he had to produce, to be
examined the next Day; and it was also
ordered, that the Directors of the Sword-
Blade Company should then attend with
their Books.

Accordingly on the 20th of *July*, the
Lords in a Grand Committee resumed
the Consideration of that Affair, and
examined the Sword-Blade Company, and
their Books, by which it appeared, that
Mr *Waller* had received vast Sums on
account of the South Sea Stock, their
Lordships seemed to be so well satisfied,
that they did not think fit to call for any
other Witnesses; neither did Mr *Aislaby*
desire that the Members of the Com-
mons, who had been summoned, should
be examined. But being called in, and
asked, what he had farther to say in his
own Defence, he made another eloquent
and moving Speech, as follows.

My Lords,

' I have already endeavoured, and I
' hope with Success, to satisfy your Lord-
' ships that the Charge laid against me
' in the Bill now depending, cannot be
' supported by any general part of the
' Preamble, nor by the particular Facts
' stated by the Commons, nor by any
' Evidence produced before your Lord-
' ships. As your Lordships have exam-
' ined all the Witnesses, recommended
' by the Commons to support their
' Charge, I did conclude, when I came
' hither this Day, that after what I said
' Yesterday, I should not be called upon
' to offer any thing more in my Justifica-
' tion.

' But now, my Lords, I find here is
' a new matter started, relating to Mr
' *Waller's* Account with the Sword-Blade

Company, which is not within your
Lordships Order, that confines me to
such Matters only as relate to my own
Defence.

' I have been a little surprized and
silent upon this Occasion not knowing
whether your Lordships expected, or
whether it was fit that I should take any
notice of it; for as the Commons have
not transmitted this matter to your
Lordships, as a ground of their Charge,
I take it for granted, they did not
think it worth your Lordships Enquiry,
or proper for your Judgment, being ra-
ther a matter of Clamour, and only cal-
culated for the People.

' I must own, my Lords, if it is ex-
pected I should give an account of this
Transaction, I am at a Loss to know
how to go about it.

' For, first, I do not know the Con-
tents of this account, and, in the next
place, how shall I make it bear to my
Charge, or any part of it? How is it
made out to be a Breach of Trust in
the Chancellor of the Exchequer, to
Credit his Son-in-Law with any Sum
of Money? Or how has he thereby
combined with the South Sea Directors
in their pernicious Practices? Or how
could he, in such an Act, be Guilty of
dangerous and infamous Corruption?
There has nothing appeared to your
Lordships concerning this Transaction;
but the Sum total of the whole Account
in such a time; and it may happen,
that a great part of this Transaction has
no Relation to the South Sea Stock,
and that the tenth Part of it does not
belong to me.

' But where are my Labours to end?
How is it possible my Lords, for me to
dress up this Matter to be a Charge a-
gainst my self? It is to be imagined, I
suppose, that all these Transactions
have been upon my account, and con-
sequently, that I must have been a great
Gainer. I pity the Malice of my Ene-
mies, that are reduced to such poor
Shifts as to endeavour to prove my deep
Views and Designs from the most stu-
pid Folly in the World, and my Riches
and exorbitant Gains from this Instance,
and another which I shall presently men-
tion to your Lordships, that plainly
shew my Losses.

' For it is possible my Lords, that a
Man who is supposed to know the
World, that is thought capable of form-
ing a Scheme, and of directing the
very

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' very Directors, should be so destitute of
' proper Agents, as to trust his Negotia-
' tions to an unexperienced Youth, who,
' by his Transactions seems to have dipt
' as much in the Whims of the Alley,
' as any Adventurer of them all? The
' Absurdity is too great my Lords, to
' gain Credit any where, much less in
' this Place, that one, upon whom the
' Eyes of the World are fixed, and whose
' Actions might be canvassed with great
' Severity, should, in order to conceal his
' Affairs commit them to a near Relation,
' acting in the most open and unguarded
' manner.

' And as my Apprehensions during the
' Execution of this Scheme, were become
' remarkable, and the Jest of all that
' embarked in it, there can be nothing
' more extravagant than to make me a
' Party to this Gentleman's Transactions,
' which were visibly carried on with a
' Spirit very different from mine, and
' which, from the Nature of them, seem
' to be the Effect of rash Councils, and
' suited to the Phrenzy of the Times.

Mr Waller, my Lords, is a near Rela-
' tion, but entirely independent of me,
' and who consulted me less upon this
' Occasion than any other Man, where-
' of this Transaction with the Sword-
' Blade Company is the strongest Evi-
' dence: For, as he has told your Lord-
' ships, that I never knew of this Ac-
' count, or his keeping his Cash there till
' they broke; so it is improbable I should
' trust all my Affairs to his Management,
' who dealt with a Company in whom I
' never had any Faith, nor with whom I
' never had any Dealings.

' As to the greatness of this Transaction,
' I must own my Lords, if the Memory
' of this Year could be obliterated, it
' might very well surprize us; but I must
' observe to your Lordships that this Sum
' of 700,000 *l.* is not the Balance of the
' Account at any one Point of Time, as
' is generally understood, but the Total
' amount of several Sums paid and re-
' paid many times backwards and for-
' wards, and sometimes great part of it
' the same Day. And any Person used
' to Accounts must know, that the 40th
' part of this Sum, was more than suf-
' ficient to answer the whole Sum of
' 700,000 *l.*

' Many of your Lordships know the
' Truth of what Mr Waller has told you,
' viz. That a great many young Gentle-
' men and others, whose Beginning was

' not so considerable as Mr Waller's, who
' had a very good Real and Personal
' Estate before the South Sea Scheme was
' thought of) have transacted for as
' much as he did. Nor does it follow
' from the greatness of the Transaction,
' that the Profit was extraordinary; since
' many have dealt for greater Sums than
' this, whose Fortunes are far from being
' improved; and it is very plain, that
' 10,000 *l.* Stock, not stirred at all, till
' sold out at the best Advantage, would
' have brought more Profit than all these
' numerous Transactions put together.

' My Lords, I am very free to own
' that 53000 *l.* of this Sum belonged to
' me, great part whereof is now locked
' up in the Sword-Blade Company, and
' depends upon the goodness of their Se-
' curity; and I am far from declining to
' give your Lordships the most perfect
' Account I can of all my Transactions,
' notwithstanding Mr Waller is not able
' to do it, who never kept any regular
' Accounts that ever I saw, but did every
' thing in the same Hurry and Confusion,
' as most other young Gentlemen at that
' Time did.

' I do not perceive that your Lordships
' have entered into the Examination of
' this Account any farther than to know
' the Sum total, which has not taken
' up much of your Lordships time, not-
' withstanding the Gentlemen of the Se-
' cret Committee have employed much
' Pains in it, and have displayed it as a
' Discovery of my immense Gains, and
' a Transaction entirely belonging to my
' self.

' My Lords, it is very hard, that a-
' gainst all Evidence, against all Truth,
' and every Circumstance that conduces
' to it, such an Insinuation should pro-
' ceed from any one Man, or Committee
' of Men, to the Prejudice and Ruin of
' an innocent Person.

' I dare say, my Lords, they had no
' other Grounds in the World for it but
' the vain Presumption from Mr Waller's
' near Relation to me that he acted solely
' for me; whereas it now appears to your
' Lordships by Mr Waller's Evidence; that
' he acted for many other Friend as well
' as for me, and that I was not so much
' as Privy to the Accounts he kept with
' the Sword-Blade Company.

' Is it then possible, my Lords, that
' your Lordships should give way to so
' groundless a Supposition, as that all this
' Account should belong to me?

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My Lords, if this way of Proceeding had been the general Rule of judging in the Cases of others, the Secret Committee might have carried on their Enquiries against many in the Administration, with much more Justice and Certainty than against me; and they might if they had thought fit, from the Dealings of several Agents, Friends, and Dependants, who dealt for much more than Mr *Waller*, have furnished Matter of Imputation against Persons, concerning whom they are altogether silent. And if it had not been too invidious in me, my Lords, to have asked the Question, Mr *Waller* could have named to you some Persons, who had less Foundation of their own than himself, and who yet have transacted for much more, and who have the Honour to be known to some of the Secret Committee, as well as to much greater Men than my self.

But, my Lords, as I am confined to what only relates to my self, give me Leave to say, that this Account of Mr *Waller's* with the Sword-Blade Company, and the Account of Stock bought and sold by Mr *Weymondfold* have been the chief Grounds of my Accusation, or rather of the publick Clamour, though of the whole Balance of this Account of Mr *Waller's* when truly examined, there is but 53,000*l.* belongs to me; and Mr *Weymondfold's* great Account of 77000 *l.* Stock, when fairly stated is reduced to 12000 *l.* Stock, now in my Hands. It was impossible to work People up to such violent and extraordinary Proceedings without first raising the publick Envy and Resentment. It was therefore thought necessary to make the World believe, that I was immensely rich, and that I have gained my Wealth from the Spoils and Ruin of the unhappy Sufferers: It was necessary to make the World believe, that the Scheme was calculated by me with that View, and that I had the sole Conduct of it, or according to the witty Turn of a very learned Gentleman, that I was the Director of the Directors.

As the Opinion, my Lords, of my exorbitant Gains has almost universally prevailed, be pleased to give me leave to explain how a Report so artfully raised and dispersed about the Nation, came at last to be strengthened, and as it were sanctified by Authority of the House of Commons,

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The Secret Committee, who were appointed to enquire into these Proceedings, had with great Pains and Application examined and searched into every thing; but before they could be ready to lay any great Discoveries before the House, in order to satisfy the Impatience of Gentlemen in some manner, and to give a Specimen of their Labours, an honourable Member of that Committee stood up and pronounced in his Place, that he had found out above ten Millions that belonged to the Directors, and, by way of Supplement, above a Million and a half more that belonged to another Gentleman, whom he did not think fit to Name at that time. This hopefull beginning gave much Satisfaction to those who delight in great Discoveries, and raised the Expectation of all the Hearers: But so dull was I, as not to find out that I was concerned in this Description, till every Libel, and every News Paper was full of it.

But what did these vain Promises amount to? Your Lordships have seen what the Directors have produced, and how far short it falls from this romantic Account. And as to my self, the Object of this solemn Enquiry, I doubt I shall not contribute much, though this Bill should pass, to raise the Reputation of the Secret Committee in these wonderfull Discoveries.

Thus, my Lords, I have cleared my way through all the Dirt and Scandal that hath been thrown upon me; I shall now beg leave my Lords, to lay before you a short Narrative of the Rise and Progress of this Scheme, and the Execution of it after it had passed into an Act, as far as has come to my Knowledge, that your Lordships may judge whether I have done my Duty, or have been guilty of any Omission.

My Lords, I have proved by Sir *John Blunt*, that he first communicated his Scheme to the late Lord *Stanbope* soon after his Majesty's return from *Hanover* in 1719, that my Lord *Stanbope* some time after, sent this Scheme to me, and desired me to talk with Sir *John Blunt* about it, which I did in the Presence of Mr *Clayton* and Mr *Knight*, that there were several Alterations made in this Scheme, and, particularly in one part of it relating to the Funds of the Bank and the East India Company, which were proposed to be incorporated into

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into the Funds of the South Sea Company.

And at last the Scheme was formed and agreed to by all those in the Administration, as it was first opened and proposed in the House of Commons. And I do aver here, before your Lordships, that there was not one Step taken in this Affair, before it passed into an Act, that was not taken by the Concurrence and Approbation of those in the Administration, and even some of the Secret Committee: And so cautious and diffident was I of the Success of so great an Undertaking, that though the Scheme was adapted to the Notions and Opinions of those Gentlemen, who, for two Sessions before, had opposed all Measures for reducing the Interest of the publick Debts, till the long Annuities were made redeemable; yet I would not adventure to introduce it to the House of Commons, till it had been communicated and approved of by them: And as this Scheme was then calculated with no inconsiderable Advantages to the Publick; as it at once raised three Millions and a half towards the Discharge of the publick Debts; and at the same time, put the long and short Annuities into a State of being redeemed; and after four Years, reduced the Interest of the whole Debt of England to 4 per Cent. and thereby made a vast Addition to the sinking Fund: I flatter my self it could not have been thought a bad Bargain to the Publick, as some were pleased to represent it, or liable to those unhappy Consequences that have attended the Alteration of it, since it would have been restrained and tied down to such Conditions as would have made it impossible for any Projectors to have hurt us.

But, my Lords, these Measures were all broke at once by a sudden Resolution of the Bank, who before had shewn a great backwardness in undertaking any thing for the reducing the publick Debts, and had treated this Scheme with great Contempt; I say, my Lords, as soon as this Scheme was opened in the House of Commons, the Gentlemen of the Bank were immediately stirred up to become Competitors for it, and to desire that they might be suffered to offer Proposals as well as the South Sea Company.

It was very easy to see the Consequences of this Competition; and I ex-

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pressed my Fears to all those in the King's Service that were consulted about it; and we had a Meeting, where the Lords of the Treasury and those in the Administration were present, in Order as Sir John Blunt says, to persuade the South Sea Company to advance their Proposals and to offer four Millions certain: It was then, my Lords, that I again expressed my Fears of this Undertaking, and declared, that I did not see how the South Sea Company could go through with it, if they were to give any more Money for it, without the Assistance and Concurrence of the Bank, and much less if the Bank opposed them; and upon this, I proposed to the South Sea Company, that the Scheme should be divided between them and the Bank, which drew from Sir John Blunt this Memorable saying, *No Sir, we will never divide the Child.* For my part, my Lords, upon this Occasion I was entirely for dropping it, nor could I be prevailed upon by those that pressed me very warmly, to have any thing more to do in it; and when a certain Gentleman of the Secret Committee, at the Instance of an honourable Gentleman that is since dead, moved the House, that the Committee might be opened again to receive fresh Proposals from the two Companies, and as it were, to set up the Nation to Auction, I was so far from approving it, or giving any Consent to it, that I quit- ted the House upon it, and would not be present when it was moved. This, I think, was shewing my dislike of it as far as I could decently do it, in respect to my Fellow-Servants, from whom I differed, and I defy any Man to prove, that from that Day, till the last Proposals of the South Sea Company were actually accepted by the House of Commons, I ever spoke to, or conferred with or advised any one of the Directors of the South Sea Company, to bid a Shilling more than they had done; and if they did advise with any in the Administration about these last Proposals, it was either at my late Lord Stanhope's, or at Mr Secretary Cragg's; for they never came to my House afterwards, till the Bill was drawn. And, my Lords, to shew you my dislike of this fatal Transaction, (since all the Arguments against me are drawn from Interest) I must acquaint you, that the Night before these Proposals were offered

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ferred to the House of Commons, I was told at my Lord Stanhope's, that some of the South Sea Company had been there, and that they were resolved to out-bid the Bank at any Rate. To this, my Lords, I then declared my Dislike, and gave Orders that Night to sell out all my South Sea Stock, (except 2000*l.*) which was actually done the next Morning, and which makes so great a Figure in *Weymond's* Account. Thus my Lords, if we were to judge from Interest, I could not be thought partial to the South Sea Company's Proposals, when I had so little Stock with them, and so much in the Bank; and, my Lords, there is nothing more Notorious, nor which can be proved by more Witnesses, than that I did not go out to the Directors that Morning to advise them to out-bid the Bank, (as Sir *John Blunt* would insinuate, though he has been contradicted in it by Mr *Joye* and others) but that I sat still in my Place in the House of Commons, till the Proposals were received, expressing my Dislike of them to all those about me, and publicly declaring in the House, that I thought both the Corporations had out-bid themselves.

Thus was this Scheme accepted, and as Sir *John Blunt* says, *become the Act of the House of Commons*; and, as it was their Act, it was my Duty by the nature of my Office, to see the Bill drawn and brought in accordingly.

My Lords, there was something very extraordinary in the Consequence of this Affair, that the more the South Sea Company were to pay to the publick, the higher did their Stock rise upon it: Whether this proceeded only from the Distemper of the Times, that afterwards broke out into such a Flame, and which was Kindled by the Opposition of the Bank, and the Value they set upon the Scheme, by bidding so high for it; or from what other Cause I cannot tell: but from that Time it became difficult to govern it; and let those Gentlemen that opened the Flood-Gates wonder at the Deluge that ensued as much as they please, *it was not in one Man's Power, or in the Power of the whole Administration to stop it*, considering how the World was borne away by the Torrent, and particularly the Members of the House of Commons.

And I will be bold to say, my Lords, and the Gentlemen of the Bank

I believe will own, that if they had carried the Scheme upon their last Proposals, they could not have executed it with Success; and I will shew your Lordships from what they had done since, that they would have acted in the same manner as the South Sea Company had done, and I am sure with more fatal Consequences to the Publick.

Thus my Lords, was this Bill past, and whatever Conditions or Restraints might have been put upon the South Sea Company, if the first Proposals had been accepted, they became now impracticable; nor would the South Sea Company submit to be controuled in an Undertaking they were to pay so dear for. And notwithstanding it has been said, that the Scheme could have been executed at 150; yet Mr *Gibbon* has told you, and so will all the other Directors, that they would not have undertaken to have given so much as five Millions, if they had been restrained from selling their Stock higher than at that Price. And therefore as there was no Power reserved to the Treasury to controul the Directors in the Execution of the Scheme; and as there was such vast Advantages to accrue from it to the publick, there was nothing remained for the Treasury to do, but to give them all the Assistance they could, and particularly, what the Law had provided for them.

For this Reason, my Lords, the Exchequer Notes were issued to them, though at that Time their Stock was high, and perhaps they might not want them very much, since it was easy at that time for them to raise what Sum they pleased by Subscriptions.

But as they were entitled to those Notes, and as they were demanded of the Treasury according to Law, the Commissioners of the Treasury could not be so indiscreet, as to refuse them, without taking upon themselves the Blame of any Miscarriage; and it is very plain that the wisest of the Directors, who saw their Stock carried to that monstrous Height, where it could never be supported, were apprehensive of the Consequences of it, and were looking out for every Pretence to lay Blame upon the Administration.

But though I was always upon my Guard in this point, yet I do declare I never was wanting to serve and assist them to the utmost of my Power.

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' And though perhaps, my Lords, it was in the Power of the Treasury, if they would have taken upon them what did not belong to them, to have run down the Stock; yet *considering the Parliament was then sitting, the greatest Part whereof were deeply engaged in it*, it had been a bold Undertaking for the Treasury to have attempted to have brought down the Stock, and must have drawn upon themselves the Rage of all the Sufferers, and sure Destruction.

' This unhappy Affair, my Lords, began at a time when the Passion and avaricious Desires of Mankind were grown up to a Madness and a Distemper, and one cannot without Pity look back upon the Rage and Folly of the Year.

' The unaccountable Success of this Undertaking gave Birth to many base and ruinous Projects; and *it must ever be a publick Reproach, that Encouragement was given to those two Bubbles that were established to raise a Supply for the support of the Civil List*; it is very well known that those two Projects did not proceed from me.

' Whatever Opinion the World may have of the South Sea Scheme, I will presume to say, these two Projects were founded in greater Iniquity; and contributed more to the publick Calamity than any thing else.

After this, my Lords, I may venture to say, the South Sea Scheme was become ungovernable and some of the wisest of the Directors were so sensible of it, that to do them Justice, I must declare, they came to the Treasury and offered to advance the Money for the Civil List upon sure and easy Terms rather than that those Bubbles should take Place.

' But though the Treasury were provided with ways and means for the Supply of the Civil List, without the help of either; yet those Projects, and others, had taken such deep Root in the House of Commons, and elsewhere, as made it impossible to oppose them; and they had that Consequence which the Directors of the South Sea Company foretold, and which every Body might foresee. *viz. to encrease the Flame by adding this unnecessary Fuel to it.*

' And as the South Sea Scheme might give Birth to the Bubbles, so the Bubbles contributed to raise the South Sea to that Height which brought us into this Condition.

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' My Lords, I must not omit in this Place to take notice, that this Spirit of Bubbling had prevailed so universally, that, to shew you what would have been the Case if the Bank had obtained the Scheme, the very Bank became a Bubble; and this, my Lords, not by Chance or Necessity, or from any Engagement, or to raise Money for the publick Service, but from the same Spirit that actuated *Temple-Mills* or *Garaway Fishery*. For this purpose, my Lords, they entertained a Scheme in Imitation of the South Sea, of lending Money upon their Stock, which as it contributed to raise the Price of their own Stock, so it furnished a Supply of Cash to the Gamesters in the Alley, that at once pushed up the Bubbles and the South Sea to an immoderate Height. But as this was intended chiefly to advance their own Stock, let the Project come from what Hand soever, it was founded in the same Iniquity with any other Bubble, and was often times of more dangerous Consequence: For as Bank Stock was raised by it from 150 to 245, and as it has fallen from thence to 130, there have been many Millions lost upon it; besides the fatal Consequence it had like to have had upon the publick Credit; for, for want of this Money, which was locked up in Loans upon their own Stock, and could not readily be come at, they were at a Loss when the Crash happened, and were forced to have recourse to a Subscription supported chiefly by the Adventurers of the South Sea, and to a memorable Bargain with the South Sea Company.

' And here, my Lords, whilst I am speaking upon this Subject, give me leave to lament the Fate of the unhappy Proprietors of the redeemable Debts that were drawn in to subscribe their respective Estates, not so much from the Arts of the South Sea Directors, as from the fatal Influence and Example of some of the chief Managers and Friends of the Bank; who, though they now make the greatest Clamour for Justice, were the first that subscribed the Redeemables into the South Sea Company; and this my Lords, they did not do by Surprise or Mistake, but upon great Deliberation; having some time before prepared for this subscription, and purchased great part of this Debt at advanced Prices for this purpose. And there are some of these

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Gentlemen,

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'Gentlemen, and even some of my
'Accusers, that purchased the Redeem-
'ables, who thought me extremely silly
'for advising them against endeavouring
'to make their Fortunes by this Project.
'And it is likewise very remarkable, my
'Lords, that a Letter was produced to
'the House of Commons, under the
'Hands of the chief Directors of the
'Bank, whereby they made the most
'early Application, and in the most hum-
'ble and abject Terms to their most de-
'termined Enemy, Sir John Blunt, to
'be admitted to this Subscription. It
'was no Wonder then, that the wisest
'and most cautious of their Admirers
'went along with them, and much less
'that the Croud should be led into this
'fatal Error by their Example.

'I do not say this, my Lords, to lay
'any Blame or Imputation upon the
'Bank, but to shew your Lordships, that
'this grave and cautious Body of Men
'were touched with the Infatuation as
'well as others; and that some of their
'greatest Friends, and the loudest Com-
'plainants, were, in spite of all advice,
'the greatest Pushers in this chimerical
'Project.

'I must own, my Lords, I was pretty
'much surprized to see this Work going on;
'but as the Act of Parliament had en-
'tirely divested the Treasury of all Power
'and Controul over the South Sea Di-
'rectors, in respect to the redeemable
'Debts, we could be only Spectators of
'this melancholly Scene.

'Of this the Company was not igno-
'rant, and therefore did not think fit to
'consult me, or any of my Brethren
'about it, but hurried it on to Execu-
'tion at once. They knew their Power
'too well, and were too much elated
'with their Prosperity, to think of con-
'sulting with the Treasury upon that oc-
'casion; and to shew your Lordships,
'how vain it had been for the Treasury
'to have interposed, and of what little
'Weight the Chancellor of the Exche-
'quer was at that time with these Gen-
'tlemen, before the Treasury was ad-
'joined I waited upon some of the Di-
'rectors at the South Sea House, to know
'if they had any Commands for the
'Treasury; I indeed took the Liberty to
'recommend to them, in a particular
'manner, the expediting the Duplicates
'of the Subscriptions of the redeemable
'and irredeemable Debts, that the Pro-
'prietors might have their Stock in their

own Hands as soon as possible; but I
'found them too busy in making their
'Loans, and squandering away the Com-
'pany's Money to mind such Trifles; and
'so I was dismissed by Sir John Blunt;
'with leave to go into the Country. Such
'was the Pride of this mighty Projector
'at that time, to whom so many have
'bow'd and ju'd for Favours!

'We have lost the Memory of every
'thing, if in so short a time it can be
'forgot how the Eyes of the World
'were turned from the Treasury, and
'the chief Ministers of State to this
'great Oracle, whose Words (as Sir Theo-
'dore Janssen says) was a Law to the
'Company. To him we owe every Motion
'and every desperate Step that was taken
'in the Execution of this Scheme; and
'therefore I cannot help saying, that the
'Countenance which has been shewn him
'in another Place, is due to a Merit that
'has not yet been made known to the
'Publick. But this Glory, my Lords,
'did not last long, and I was scarce got
'down into the County, when I was
'called back by the Cries of those con-
'cerned in this unhappy Company. I
'found the Lords and others in the Ad-
'ministration met, and using their Endeavours
'to succour and support the Stock:
'The Bank by their Mediation was called
'into the Assistance of the South Sea
'Company, and an Agreement was made
'between the two Companies, to which
'I was rather a Witness than a Party.

'This gave some Life to their Stock,
'and stopped the Mouths of the Redeem-
'ables, who were grown very clamorous.
'I must own the just concern I had at
'that time, and shall always retain for
'this great Body of the publick Credi-
'tors, and I was pleased to see them so
'well satisfied with the Bargain the Bank
'had made for them and for themselves,
'upon whom they pinned their Faith
'so absolutely. And for my part, I
'(who was not in the Secret) could not
'but think it a real and sincere Bargain,
'since it was made in so solemn a man-
'ner, between a Committee of both
'Companies, in the Presence of many
'Lords and Gentlemen in the Admini-
'stration, confirmed and ratified by the
'Court of Directors of each Company,
'and at last signified in Form to the
'Commissioners of the Treasury, by Sir
'John Cope, one of the Directors of the
'Bank.

'I could

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' I could not suspect there was any Intrigue or Deceit in this Transaction, untill I saw from the extraordinary Motions in the Alley, and several private Hints that were given out, what was intended. I could not think it possible that the Gentlemen of the Bank, who had such great Interest in the Redeemables themselves, should drop so many Thousands of the unhappy Proprietors, who had depended so intirely upon them, and who would have certainly have found their way out of this curled Labyrinth, if they had not been lull'd a Sleep by this fallacious Agreement.

' As for me, my Lords, I was thoroughly satisfied that this Agreement of the Bank, was a legal and a firm Bargain? and I cannot yet imagine, with what Face of Justice or Equity they could ever brake through it, without providing for the Safety of their Wards, (if I may use that Expression) the Proprietors of the redeemable Debts.

' Whilst that Bargain subsisted, and whilst the great Frauds and Embezzlement of the South Sea Company's Money were concealed, at least from me; and whilst the Loans as yet were not remitted by the House of Commons, I did not think these Proprietors had so ill a Bargain, or could be so great Sufferers as now I find they are: For this reason, my Lords, with much Reluctance, and after all the Delays that could be made, in order to give these Gentlemen the Opportunity to withdraw their Subscriptions, if they thought fit, we did sign the Instrument to the Exchequer as the Law directs, and as we thought ourselves bound to do: But there was that Caution used, that after we had sent the Duplicates back to the South Sea House to be corrected, and in order to give these Gentlemen time to look about them, there was not one Person that pursued the Law, or made use of the known Method of revoking his Powers, given by Letters of Attorney, that was not relieved, and so far were the Proprietors indulged by Favour of the Treasury, that every Person who entered his Protest there, had his Claim satisfied by the South Sea Company, before the Duplicates were allowed, and the Instrument signed.

' But after all this, my Lords, I must declare that as I had no Design of forming a Power upon their Ruin, so no Views or Sollicitations upon Earth,

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' should have prevailed with me to conclude them in their Properties if I thought the Bank would have dropt them and withdrawn themselves, or that the Loans would have been remitted.

' My Lords, I heartily lament the Misfortunes of those, who being drawn in by others, had not the Opportunity or Skill to relieve themselves; but for those my Lords, that were learned in the Law, or at the Head of the Law, and who by their Examples, and perhaps Authority, drew others into this Misfortune. I am not concerned if they are punished for their Folly, in purchasing these Debts, in order to subscribe them in with a View to their own exorbitant Profit; and no Man can pity them that crowded in with so much Preceipitation, and who, after so much time for Recollection had not Law enough in so known a Case, to find their way out again.

' I do not intend, my Lords, by what I have said, to lay any Imputation upon the Bank of England, for as in all great Bodies, there are few that are let into the Secret; I suppose it might so happen here; but if what I have heard since be true, and what they say has been publicly avowed, that this Bargain was never intended to be kept; then, I say, it was not only a usefull Secret to those that were in it, but the most compleat Stratagem of the whole Year.

' But whoever have contributed to the Misfortunes of the redeemable Creditors, sure I am, their Destruction cannot justly be imputed to me; since I have only, as one of the Commissioners of the Treasury complied with the Law, where I heartily wish they may find what Relief is due to them.

' If I may be allowed, my Lords, to take notice of another Body of unhappy Sufferers in this common Calamity, I believe I shall easily gain Credit, if I assure your Lordships, that I have nothing to answer for, with respect to the Money-Subscribers. There is not one Man in the Kingdom that can lay his Misfortunes on that account at my Door. No Body can say, that I advised or encouraged him in those Adventures; there are Letters to be produced, that would make my Enemies ashamed, even some of the Secret Committee themselves, of their bumble Sollicitations for those Favours.

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‘As to the Proprietors of the old Stock, they have no reason to complain of me; I have not robbed them by Loans for my self, or any of my Friends, and as all the Witnesses that have been examined have entirely acquitted me of advising or being privy to any of these Loans, so I challenge all the World to prove that I ever recommended any one Man to the Company to partake of them. And if I had those avaritious Views that are suggested, I must have mistaken my way very much, and have been little in the Secret, not to have secured a good Share of the publick Spoils out of these *unwarrantable Loans*.

‘But as these Loans and the Directors buying their own private Stock for the Company, with the Company’s Money, were the chief, if not the only Causes of our Misfortunes, and the Ruin of the publick Credit; So my Lords, the Directors, I mean those that were in the Secret, were so far from consulting me or any of the Commissioners of the Treasury, upon either of these Occasions, that notwithstanding my Endeavours to know the State of their Cash and Credit, they kept it as the greatest Secret from me, and guarded more against me, than against any Man living. Nor could I ever learn from Mr Knight what those Loans amounted to, or upon what Security they were lent, notwithstanding others were let into that Secret, untill the Accounts thereof were laid upon the Table of the House of Commons. Thus, my Lords, I conceive I have given you full Satisfaction as to every thing that hath been laid to my Charge, or that I can even suggest against my self, without the help of my Prosecutors; but if any Doubt remain with your Lordships in relation to my Defence, or if there be the least Circumstance that is not cleared up, I beseech your Lordships that I may know it before I withdraw.

‘My Lords, I now perceive your Lordships do not think it necessary that I should take up any more of your time; and therefore since I have gone through my whole Charge, and your Lordships are pleased to require no farther Satisfaction, give me leave to say, before I conclude, that notwithstanding the Weight of publick Clamour, and the strictest and most torturing Enquiry that any one Man has ever undergone, it is an unspeakable Happiness that I

‘have set my Innocence in so clear a Light; and it is surprizing beyond any thing that ever happened, that amongst so many unfortunate Men to whose Fate I am tack’d by this Bill, and who have been examined particularly against me, under all the Terrors of Death and Confiscation, and under all the Temptations that could be thrown in their way, there is not one of them that has accused me, but, on the contrary, they all have entirely acquitted me. This, my Lords, I must call a Deliverance; this will make me bear the worst of Punishments without Shame. This is such a Trial that no one ever past through before; and I heartily wish that the worst of my Enemies may, in their Day of Trial after such a Prosecution, and such an Enquiry, be able to make their Innocence abide the Test as well as mine has done. I have made no base Submission, no unworthy Applications to any Man, notwithstanding the Vanity of one of the Secret Committee. My Innocence has been my only Skreen, and your Lordships Justice is my Refuge.’

Mr Aislaby having ended his Harangue was ordered to withdraw. And the Question being put, *that there was sufficient Ground to have his Name continued in the Directors Bill*, it was carried in the Affirmative, after a Debate, in which several Lords spoke in behalf of Mr Aislaby; whereupon he was remanded to the Tower.

The next Day the Lords heard Sir Constantine Phipps and Mr Williams, Council upon the Petition of the Executors of the late Mr Craggs, Senior, and then called in, and examined severally, Sir George Caswell, Mr Sawbridge, Mr Surman, Mr Horn, and Mr Huggins. It was alledged and endeavoured to be proved, in favour of the Petitioners, that Mr Craggs had paid for his Stock by a Note of 30000 l. from the Sword-Blade Company, payable to Mr Robert Knight, Treasurer of the South Sea Company: And Sir George Caswell, and Mr Sawbridge swore that they had given such a Note; but when the Question was put to Mr Sawbridge, whether the Note was paid, he first answered evasively, which put the House into some Heat, and the Lord Trevor stood up and said, ‘He wondered that August Assembly would suffer themselves to be trifled with at that rate.’ Hereupon Mr Sawbridge, being ordered to answer directly upon his Oath, whether

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whether the Money mentioned in the Note was paid or not? He then owned it was not, nor ever intended to be paid, when it was given: Upon which, the House was so thoroughly convinced of the fraudulent Collusion, that they would hear no more Witnesses, but passed the Clause relating to the late Mr *James Craggs*, Senior, *without one Negative*.

The next Day the Lords went through most part of the Directors Bill, and put it off to *Monday* the 24th. It was generally reported and believed, that this was done with a Design to give the Courtiers time to feel the Pulse of several Persons, as to an intended Clause for Mulcting the late Directors; but being told by the leading Members in the House of Commons, that if any Alteration was made in the Bill, they would never pass it; when that Day came, the Lords in a Grand Committee, went through the Bill, and made only some small Amendments, as to the time given to the forfeiting Persons to discover their Estates. On *Tuesday* the 25th of *July* their Lordships read the said Bill a third time, passed it, and sent it down to the House of Commons, who readily agreed to their Lordships Amendments. And the Bill soon after received the Royal Assent.

The Parliament being prorogued for two Days, viz. to the 31st Instant, His Majesty at their meeting made a Speech to both Houses of Parliament, wherein he acquainted them that the occasion of his calling them together so suddenly, was, to give them an Opportunity of resuming the Consideration of the State of the publick Credit.

The Commons being returned to their House thereupon, came to several Resolutions for the re-establishing of publick Credit, which not being satisfactory to the Persons concerned, several Hundreds of the Proprietors of the short Annuities and other redeemable public Debts, of both Sexes, came to the Doors of the House of Commons, and demanded Justice of the Members as they went into the House in a tumultuous manner, and some of them tore off part of the Comptroller's Coat as he passed by; whereupon the House ordered the Justices of Peace and Constables of *Westminster* to attend for their Protection.

The Justices attending accordingly, ordered the Proclamation against Riots to be twice read, whereupon the Petitioners thought fit to disperse; but upon

going off they told the Members, *That they first picked their Pockets, and then would send them to Jail for complaining.*

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However a Bill was prepared in Pursuance of the aforesaid Resolutions, and on the 10th of *August*, received the Royal Assent, after which the Parliament was prorogued.

October 18. Mr Knight Cashier of the South Sea Company, made his Escape out of the Castle of *Antwerp*, carrying with him the Serjeant appointed to guard him, and still lives in great Security in a Neighbouring Kingdom.

By the Statute for raising Money on the Directors Estates, &c. It is enacted, That all the Estates real and personal which the late Sub-Governor, Deputy-Governor, Directors, Cashier, Deputy-Cashier, and Accomptant of the South Sea Company, and *John Aislaby*, Esq; or any Persons in Trust for them, on *June* 1st, 1720, or at any time afterwards, or which *James Craggs*, Senior, Esq; or any in Trust for him at the time of his decease, was or were possessed off, or entitled to in Law or Equity in their own Rights or to their own Uses, or in Partnership with others (except as herein after excepted) shall be vested in Sir *John Eyles*, Bart. Sir *Thomas Cross*, Bart. *John Rudge*, *Matthew Lant*, *Roger Hudson*, *Edmond Halfey*, *John Lade*, *Gabriel Roberts*, and *Richard Hopkins*, Esqs; appointed Trustees for the Uses in this Act, and the Heirs, Executors, &c. of the same Trustees from *June* 1st 1720. As to the Estates of the said late Directors, &c. and *John Aislaby*, and from Day of Death of *James Craggs*, as to his Estate, and shall be adjudged to be accordingly in the actual Possession of the said Trustees, their Heirs, &c. to the intent the same may be sold, or otherwise applied by the Trustees or the Survivors of them, their Heirs, &c. for the uses in this Act: Except the necessary wearing Apparel of them the said late Directors, &c. and of *John Aislaby*, their Wives and Children; and except such part of the Premises as shall be allowed for the Subsistence of them and their Families, under the Conditions herein after specified; and except such parts of their personal Estates as have been or shall be disposed of, for paying such just Debts as were contracted by them before the 5th of *January* 1720; and except such perishable Goods as after the 5th of *January* 1720, and before the

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the 25th of *March*, hath been disposed of by them.

The Estates *Tail* of the Directors, &c. in Possession, Reversion or Remainder, are in like manner vested in the said Trustees to be sold.

The said Trustees are empowered to Sue for the recovery of such Estates at Law or in Courts of Equity, and demand Discoveries as if they were Purchasers.

The Directors, &c. are required to deliver up all the Writings of their Estates to the said Trustees upon Oath, on Pain of being committed to the common Goal.

The Trustees are impowered to examine Witnesses for the discovery of such Writings.

They are also impowered to get in the Directors Debts or compound them.

The Trustees are impowered to make Inventories, appraise and sell the Goods and Chattels of the Directors, &c. to the best Bidder.

And may sell the Lands of the Directors, &c. but the Trustees may not be Purchasers.

But nothing herein shall avoid any Conveyance or Alienation of the said real and personal Estates made by the late Directors, &c. after the 1st of *June*, and before the 5th of *January*, 1720, for a valuable Consideration actually paid, or Debts really contracted before the 5th of *January*, 1720.

Persons indebted to the Estates of the Directors, shall give notice to the Trustees thereof, on Pain of forfeiting the Value of the Money which shall be found due.

The said *John Aislaby* shall not depart the Kingdom during the space of a Year, and shall enter into a Recognizance with two Sureties in the Penalty of 100,000*l.* himself, and 25,000*l.* for each of his Sureties not to depart.

Any Person refusing to be examined concerning the said Directors Estates shall be committed to the *Fleet*.

If the Directors or *Aislaby* transport their Effects beyond Sea, they shall be adjudged guilty of Felony without Benefit of Clergy.

Persons concealing any Trusts or Estates of the Directors, &c. to forfeit treble the Value and suffer one Year's Imprisonment.

Persons discovering any of the Estates or Effects of the Directors, &c. concealed, shall have 10 *per Cent.* out of them.

Aislaby shall deliver to the Trustees upon Oath, and Inventory of the real and personal Estate he had at the time they were vested in the Trustees, and another Inventory of the Estates belonging to him on the 1st of *October* 1718.

A Deduction shall be made of the clear Value of the Estate which belonged to him on the 1st of *October* 1718, which shall be vested in the said *John Aislaby*, his Heirs, &c.

And this Act shall not extend to vest in the Trustees that part of the real Estate which belonged to the said *Aislaby* on the 1st of *October* 1718, or any Household Goods or Furniture he stands possessed off.

The Heirs and Executors of the said *James Craggs*, shall deliver in upon Oath Inventories of the real and personal Estate he was possessed off at the time of his decease.

And another Inventory of the Estate belonging to him on the 1st of *December* 1719, and a Deduction shall be made of the clear Value of the Estate that belonged to him on the 1st of *December* 1719, which shall be re-vested in his Heirs, &c.

The said Directors, *Aislaby*, &c. are disabled to hold any Office or Place of Trust or Profit under the Crown, or to sit in either House of Parliament.

All the clear Moneys arising out of the Estates of the Directors, *Aislaby*, &c. shall be appropriated to the use of the South Sea Company for encreasing their Capital Stock, and that of all the Members thereof in Proportion to their respective Shares therein.

Every of them the said late Sub-Governor, Directors, Deputy-Cashier, and Accomptant, shall out of the Estates and Effects belonging to him respectively, have such Provision and Allowance for the necessary Subsistence of him and his Family, as are set down in the Schedule annexed, provided he release and convey to the said Trustees, all such Right, Title, Interest, Claim and Demand, which he might have or pretend to in those Estates which belonged to him particularly, and are hereby vested in the said Trustees.

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A Schedule of the late Directors respective Estates, with their respective Allowances for their Subsistence, and the Sums taken from them.

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	The neat Value of the Estates of the Directors by the Re- port of the Secret Committee.			Their Allow- ances for Subsif- tance.		The Fines or Sums taken from each Director.		
	l.	s.	d.	l.		l.	s.	d.
Sir John Fellows,	243096	00	06	10000		233096	00	06
Charles Joye,	40105	02	00	5000		35105	02	00
Mr Astell	27750	19	08½	10000		17750	19	08½
Sir Lambert Blackwell	83529	17	11	15000		68529	17	11
Sir John Blunt	183349	10	08½	5000		178349	10	08½
Sir Robert Chaplain	45875	14	05	10000		35875	14	05
Mr Chester	140372	15	06	10000		130372	15	06
Sir William Chapman	39161	06	08½	10000		29161	06	08½
Mr Child	52437	19	01	10000		42437	19	01
Mr Delaport	17151	04	06	10000		7151	04	06
Mr Edmondson	5365	00	00	3000		2365	00	00
Mr Eyles	34329	16	07	20000		14239	16	07
Mr Gibbon	106543	05	06	10000		96543	05	06
Mr Gore	38936	15	05	20000		18936	15	05
Sir William Hammond	22707	04	02	10000		12707	04	02
Mr Hawes	40031	00	02½	5000		35031	00	02½
Mr Holditch	39527	10	04	5000		34527	10	04
Mr Horley	19962	05	03	10000		9962	05	03
Sir Jacob Jacobson	11481	04	00	11000		481	04	00
Sir Theodore Janffen	243244	03	11	50000		193244	03	04
Mr Ingram	16795	00	00	12000		4795	00	00
Sir John Lambert	72508	01	05	5000		67508	01	05
Sir Harcourt Master	11814	12	03½	5000		6814	12	03½
Mr Morley	1869	10	03	1800		69	10	03
Mr Page	34817	12	03½	10000		24817	12	03½
Mr Reymond	64373	06	03	30000		34373	06	03
Mr Read	117297	16	00	10000		107297	16	00
Mr Reignolds	18368	12	02½	14000		4368	12	02½
Mr Sawbridge	77254	01	08	5000		72254	01	08
Mr Tillard	19175	14	04	15000		4175	14	04
Mr Turner	881	17	06	800		81	17	06
Mr Surman,	112321	10	00	5000		107321	10	00
Mr Grigsby	31687	6	00	2000		29687	06	00

Notwithstanding the South Sea Directors were not permitted to make a Defence by their Council or otherwise before the abovesaid Act passed them, yet it appears they afterwards published several

Papers containing an Apology for their Conduct in the Execution of the South Sea Scheme, wherein they suggested that they deserved better Usage from the Legislature.

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The Apology of the late South Sea Directors in Vindication of their Conduct in the Year 1720.

They insist that they contrived the Method for lessening the National Debts, and rendering some of those Debts redeemable, which could not otherwise have been redeemed without the Breach of publick Faith. That they had not only added above 50 per Cent. to the Estates of all the old Proprietors of the Stock, but had been continually working the publick Good by saving and reduction of Interest. That it appears by a Statute of 3 Geo. I. Cap. 9. that the Capital of the Company then amounted to ten Millions, for which a yearly Fund of 600000 l. was payable to them after the rate of 6 per Cent. and that they submitted to accept after *Midsummer* 1718, an Annuity of 500,000 l. being after the rate of 5 l. per Cent. per Annum, for their ten Millions.

That the Company also agreed to advance the Government the Sum of 2,000,000 l. for the discharge of Lottery Tickets which carried 6 per Cent. and accepted another Fund to pay them an Interest of 5 per Cent. for the said two Millions. That afterwards the Company procured as many Annuities redeemable and irredeemable and other publick Debts to be subscribed into their Stock, as with their Original Capital amounted to thirty three Millions and upwards, taking an Interest of the Government of 5 per Cent. for the present, and stipulated to take 4 per Cent. for the whole after *Midsummer* 1727. By which reduction of Interest the Nation was provided of a Fund usually called the *sinking Fund*, and was enabled to discharge the whole Debt within the compass of forty Years, or very little more, without laying any new Burthen on the Subject.

That notwithstanding all these Advantages occurring to the Nation by the Scheme laid by the late South Sea Directors, they had been evicted out of their Estates, however long enjoyed, and by whatever means acquired.

As to the Calamities of the Year 1720, which altered the Estates of so many private Persons, they ought not to be imputed to the Directors, or the South Sea Scheme, but to a more general Cause, for there was not any Order of Men in the Nation that had not some Share in

helping forward that general Infatuation, and to whom therefore the common Calamity ought to be attributed; so that it might have been justly expected, that every Order of Men in the Kingdom, should have been enclined either to have pardoned, or gently punished such a State of things as they had not been meer Spectators of.

That had the Directors been allowed the Benefit of a Trial, they might very justly have pleaded, That they had done nothing privately or of their own Heads, that they were driven into all the Steps they took by the irresistible Temper of Men of all Orders. That they had acted openly in the sight of the Legislatures, and had the Orders and Authority of general Courts for all they did, and their Thanks after it was done.

That another Cause of the sudden rise of their Stock, which occasioned the Calamities of the Year 1720, was the Bidding of the Bank against them, for the Ministry insisting the South Sea Company should pay a Sum of Money to the Government, for the Privilege of having the publick Debts subscribed into their Stock, the Bank thereupon bid five Millions and a half for the Scheme, which was one principal occasion of the extravagant rise of Stock, and of the mischievous Consequences to private Persons which ensued, (for it was evident the Nation received a great Advantage by it) and therefore the ill Consequences were only the encreasing some Persons Estates, and decreasing the Estates of others.

Another occasion of the ill Consequences of the Scheme, was the Bargain solemnly made with the South Sea Company and never performed, whereby many Persons were misled and very greatly injured.

And they farther observe, that the Directors and Managers of the South Sea Scheme, were never charged with any Frauds or Embezzlements of the Company's Effects: Even Mr Knight, who thought fit to decline the Enquiry of Parliament, and retire from his Native Country, retired only with his own Acquisitions, and without loading himself with the Guilt of robbing the publick Treasury, which was intrusted in his Hands.

That the South Sea Company in their Proposals demanded and expected the Parliament would have given them the
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African Trade, the Colonies of Nova Scotia, and the French Part of St Christopher's, but were prevailed on to waive these Demands, though these were the substantial Things to have supported the Stock. However they had Assurances from those in the Administration, that they would use their utmost Endeavours to obtain these Advantages for the Company hereafter. But the Price of Stock from the time of accepting their Proposals to the passing the Act rising very considerably, and the Bank and their Friends always opposing whatever appeared for the Benefit of the South Sea Company, they could never obtain those advantageous Grants, which they had depended on as Solid Supports to the Stock, though they frequently importuned and pressed the Ministry for the same.

That the extraordinary rise of the South Sea Stock before the passing the Act, together with the Opposition of the Bank, having defeated the Company of those Grants and Settlements which they had depended on as the solid Supports of the Stock, nothing was left them but the Opinion of Mankind, to enable them to execute the Act, which put them under a more than ordinary necessity of complying with the Dispositions of the People, and therefore the then original Design and Intention were to have no Subscriptions, but of the several Annuities and Debts that were to be taken in, yet there being immediately after the passing the Act, a prevailing Notion among many of the Proprietors, and others, without Doors (for it did not proceed from the Directors) of taking in Money-Subscriptions, and this Opinion growing universal, the Directors found themselves under a necessity to depart from the Method they at first intended to proceed in, and to begin the execution of the Act with a Money-Subscription, to which they were the more easily induced, finding the Method prescribed by the Act would require a great many Months to effect the taking in but a part of those publick Debts, and that unforeseen Accidents might so reduce the Price of Stock, as wholly to defeat the execution of the Act, and yet the Company would remain under the Obligation of paying to the Publick 4,667,000 l. though no part of the Act should be executed.

A farther Inducement to admit of a Money-Subscription, was, that they might be thereby enabled to pay off such

of the redeemable Debts, and to offer Money to such of the Annuitants as should not be inclined to take Stock for the same, they not being then certain there would be such a universal Disposition in those Proprietors, to accept Stock for their Debts and Annuities, as afterwards appeared, (but when that Disposition did appear, the Directors had no occasion to apply the Money to that use.) By these and the like Considerations, the Directors were prevailed on to open a Money Subscription at 300 per Cent. with distant times of payment, and without limiting the Sum to be taken in: Stock being then 285 per Cent.

The Method they proceeded in was this: Every Director took the Names of those Persons who applied to them, and the Sums for which they desired to be admitted into that Subscription, which when brought together and cast up, amounted to so large a Sum, and the Names were of so considerable Persons, that though their first intention was to have had that Subscription for no more than one Million, or at most one Million and half, and though they permitted no one Person to have more than 4000 l. and the Sums desired were generally reduced, yet the Directors found they could not bring the Subscription to a less Sum than 2,250,000 l. without giving such Disgust as might prove prejudicial to the Company.

The first Money-Subscription being thus fixed, and the Sum it amounted to being 6,750,000 l. of which 60 per Cent. being 4,050,000 l. was paid down, the Directors thought this Subscription a sufficient Fund to enable them to execute the rest of the Act, and accordingly came to an unanimous Resolution of taking no more Money-Subscriptions.

But this Subscription soon selling at a considerable Profit, it cannot be forgot how impatient Persons of all Ranks and Degrees were for another Money-Subscription, and by their Importunity did prevail on the Directors to agree (April 28) to open one, which was done on the 30th of the same Month, at 400 per Cent. of which 40 l. per Cent. was paid down, and the same Day they resolved it as their Opinion Nemine Contradicente, not to take any farther Subscription in Money.

This Subscription was intended also not to exceed a Million, but the Application to get into it was such, that when

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the Directors came to examine the Names and Sums demanded, *they found they could not reduce it under a Million and half, without giving the greatest Offence.*

The same Day they opened a Subscription for the Annuities, which met with such Success, that in a few Days above two Thirds of them were brought in: And on the 19th of May (the Price of Stock being then 375 per Cent.) the Directors fixed the Price for the subscribed Annuities of 32 Years purchase, to be paid as follows.

For 100 per Annum.	
Stock 700 l. at 375 per Cent.	{ 2625
which amounts to	
In Money and the Company's Bonds	575
Total for 100 l. per Annum	3200

This gave great Satisfaction to all Parties concerned, and the Stock and Subscription advanced so fast, that when the Parliament rose the Stock was at near 800 per Cent. and the second Subscription sold for 500 per Cent. Profit.

And to shew that the rise of Stock and what was then done in the execution of the Act, was far from being at that time thought Criminal, they cite part of his Majesty's Speech to both Houses of Parliament on the 11th of June, when that Session ended, wherein he says,

The good Foundation you have prepared this Session for the payment of the National Debts, and the discharge of a great part of them without the least Violation of the publick Faith, will I hope strengthen more and more the Union I desire to see among all my Subjects, and make our Friendship yet more valuable to foreign Powers.

They recite also part of the Speech made the same Day to his Majesty, by the Speaker of the House of Commons, in the following Words.

Most Gracious Sovereign,

Your Majesty's most Dutiful and Loyal Subjects, the Commons of Great Britain in Parliament assembled, had no sooner dispatched so much of the Supplies as were necessary to carry on the current Service, but they immediately applied themselves to find out means for lessening the publick Debts, in which if your Commons have the Satisfaction to see the Success of their Endeavours

exceed even what the most Sanguine could hope: If your Majesty's good Subjects have now a certain Prospect of being eased of the heavy Load of very near eight Millions, in a little more than the Compass of one Year: If the difficulties in discharging that part of the National Debt, which by some were thought to be insuperable, without Breach of the publick Faith, are now in a manner overcome, and if at the same time every Branch of the publick Credit, is advanced to an unexpected and some of them to an amazing Height: Yet your Commons must confess, That they have been only the happy Instrument in conveying these Benefits to your People, and that all the Merit they can claim is in not having neglected an Opportunity which the flourishing State of the publick Credit put into their Hands, and must in Justice acknowledge, That all these surprising Events are owing to that profound Veneration and Esteem which this Nation and all Europe has for your Majesty. For Credit is so nice and delicate in it's Nature, that though in all other Affairs no Detriment is perceived, no Mischief is felt till a Calamity comes: Yet in whatever relates to Credit, the very fear and apprehension of a Calamity, is as mischievous as the Calamity it self, and Diffidence is the same thing as Destruction: Credit therefore is only maintained in it's present flourishing Condition, by the Experience your People have had of the Vigilance of your Majesty's Councils, and the Reliance on the steadiness of your Conduct. And since the just Confidence your Subjects place in your Majesty's known Prudence and Wisdom, has enabled your Commons to make so great Progress towards discharging the publick Incumbrances: It would have been highly unjust when your Majesty condescended to desire the Advice and Assistance of your Commons, had they declined to support the Honour and Dignity of the Crown, at a time when the Nation received so much Benefit from it's Lustre, and it would have been equally ungrateful, had they not cheerfully provided the necessary Aids to make the Supplies voted at the beginning of this Session effectual.

They proceeded to shew that the Price of Stock, and also of the first and second Subscriptions, advancing Daily from the

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the time of fixing the Price for the Annuities taken in, caused many pressing Solicitations from Persons of all Ranks and Degrees for another Money-Subscription, to which the Directors constantly showed an Aversion, and endeavoured to dissuade them from it, giving for answer the Resolution they had come to against any more Money-Subscriptions, which did not stop, but rather increased the general Importunity, and from Persuasions many proceeded to Menaces and Clamour, backed with Imputations, that if that favourable Opportunity of executing the Scheme was neglected, the Blame must be charged on the Directors, whereby they were at length brought almost to an absolute necessity of opening a third Money-Subscription, which they did on the 17th of June 1720, and the same was opened the sooner, at the earnest Instance of many Members of both Houses, who desired it might be made before their going into the Country.

That the Price of Stock being 800 per Cent. at this time, and the second Subscription selling for 500 per Cent. advance, a great Number of those who desired to be admitted into the third Subscription, having requested it at 1000 per Cent. The Directors thought they could not sell it at a less Price, but they allowed such times of Payment as with the Midsummer Dividend, reduced it to about 800 per Cent.

This met with no Blame from any Person at that time, but on the contrary universal Approbation, as it appears by the Price this third Subscription bore, it soon selling at 300 per Cent. Profit.

When this Subscription was compleated, the Directors came again to a Resolution of taking no more Money-Subscriptions, and applied themselves to take in the remainder of the Annuities and Redeemables. To which end on the 8th of July 1720, they agreed to open their Books on the 12th of that Month, to take in part of them, which was accordingly done, and in a few Days most of the Redeemables and Annuities standing out were subscribed, but some of the Proprietors of those Debts and Annuities, by reason of their Absence or other Impediments, not having an Opportunity to subscribe before the Books were shut, made great Application to the Directors to be admitted; who being willing to compleat the execution of the Act with as much Expedition as they could, did

on the 27th of July, resolve to open Books on the 4th of August following, for taking in the remainder of those Debts and Annuities; and most of those which were standing out were then brought in.

That on the 12th of August, the Price of Stock inclusive of the Midsummer Dividend, was upwards of 900 per Cent. which made the Stock exclusive of that Dividend about 20 per Cent. That the Directors agreed to fix the Price of the subscribed long Annuities at thirty six Years Purchase, and the Redeemables at 105 per Cent. and the Price of Stock to be given for the same at 800 per Cent. So that the Redeemables considering they were taken in at 105 per Cent. had the Stock at about 60 per Cent. under the current Price, which gave general Satisfaction at that time.

It appeared also to a Demonstration that the Terms allowed for the Annuities and Redeemables which were subscribed, were very Satisfactory, because they were sold at a much higher Price than the unsubscribed, and some time after this Price was declared in the Gazette, many considerable Proprietors of the unsubscribed Annuities and Debts, pressed and asked it as a Favour to be admitted to subscribe, and were admitted accordingly, particularly several Foreigners and Merchants entrusted here by them for their use.

That notwithstanding the Directors had come to several Resolutions against any farther Money-Subscriptions, those Resolutions were not sufficient to stem the repeated Applications for the same from Multitudes of all Ranks, and the Proprietors of the Stock began to Clamour at their not being admitted to their Proportions in the former Subscriptions, and some of them threatened to demand a general Court, to order that the Proprietors might be admitted to a Subscription in proportion to their Stock, which obliged the Directors to take that matter into their Consideration. And the same Day on which they fixed the Price of Stock for the two last Subscriptions of the Annuities and Redeemables, they agreed to take a Subscription of 20 per Cent. on Stock for the Proprietors only: The Stock in such Subscription to be valued at 1000 per Cent. which at that time gave great Pleasure and Satisfaction to the Proprietors, and 40 per Cent. was offered for the Privilege of that Subscription.

But this did not take off the Applications, for another Money-Subscription

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tion to all Persons indifferently. To which the Directors shewed a great unwillingness, but by the continued Sollicitations of Multitudes of all Degrees, and from all Parts, they at length consented to open a fourth Money-Subscription on the 24th of August, at 1000 per Cent. exclusive of the Midsummer Dividend, the third Subscription then selling at about 300 per Cent. advance; but to prevent this Subscription running to an excessive Sum, they agreed that one fifth part being 200 per Cent. should be paid down, and none to be admitted but those who brought their Money that very Day.

The eagerness for this Subscription was so great, that notwithstanding this Precaution and the Directors full Intention that this Subscription should not exceed a Million, yet in few Hours there was 1,200,000 *l.* subscribed, although many were excluded who pressed very earnestly to come in. Had not the Directors taken that Precaution in relation to this fourth Subscription, it would probably have swelled to a larger Sum than the third, as is manifest, not only by the eager filling so great a Sum in so short a time, and the numberless Letters the Directors received from Persons who desired to be admitted into it, but from a Reply which a great Minister of State (since dead) made to them on a certain Occasion, (*Viz.*) *That he himself had a List for above a Million for that Subscription, and if they would proceed in the Method they proposed without taking in Lists as they had done in the third Subscription, he desired they would publish an Advertisement, That it was not in his Power to serve his Friends, that he might clear himself of the Clamour, that would arise against him for having neglected them.*

Then they observe again, that the Spring of the Money-Subscriptions arose from without Doors, and not from the Directors themselves; and affirm, *That those Subscriptions were countenanced by the Parliament, for that after the first Money-Subscription was taken, there having arisen some Doubt about the Validity thereof, the Parliament were pleased to pass a Clause in the Act, for establishing the two Insurance Companies, which not only confirmed the Subscription taken, but also all such Subscriptions as should after be taken; and to make the Receipts which should be given out for the same assignable in Law, which they would not have been without Authority of Parliament.*

They observe farther, that by the Original Scheme the highest Calculation of the Stock was 160 per Cent. and that advance supported by such beneficial Grants to the Company, which if pursued and ripened into actual Execution would have kept the Stock at least at that Price, without being detrimental to any. But several publick Advantages would necessarily have arisen therefrom. As,

I. The bringing the Annuities into a State of Redemption, which had been always thought the unsurmountable Obstacle to get the Nation out of Debt.

II. The reducing the Interest of the publick Debts from 5 to 4 per Cent. and thereby encreasing the Sinking Fund above 540,000 per Annum, by which the whole Debt of the Nation would have been paid off within 24 Years.

III. The lowering the common Rate of Interest which would have followed as a necessary Consequence.

IV. The Trade and Revenues of the Kingdom would have been encreased by the Peopling and Cultivating *Nova Scotia*, and the *French* part of *St Christophers*, and especially by enlarging and opening the Trade to *Africa* into the Inland parts of the Continent, whereby they could scarce have failed of discovering the many rich Gold Mines which unquestionable are there, and from thence an immense Treasure might have been brought into this Kingdom.

These are some of the Advantages that might have accrued if the Original Scheme had been pursued, which was delivered to the Chancellor of the Exchequer, and by him communicated to the Directors of the Bank, who treated it with Contempt. But as soon as they found the South Sea Company were like to come into it, they began to raise Objections against it, as not sufficiently Advantageous to the Publick, because there was no certainty what the Publick should gain by it, because as the same was first proposed the Money payable to the Government was only *pro rata*, or in Proportion to the Sum of the Annuities and Debts which should be taken in.

This Objection caused the Alteration which was made in the Scheme, before the same was shewn to the Court of Directors, whereby the Company were obliged to pay the Publick a Million and half in all Events, for the redeemable Debts, whether any of them were taken in or not. And

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And to this Opposition of the Bank, they observe, may justly be imputed the Destruction of the Scheme, and the Misfortunes which ensued. Nor was this the only Share the Directors of the Bank had therein, for no sooner was this Scheme opened in the House of Commons, but the Bank became Competitors for it; which so warmed the Spirits of the Proprietors of the South Sea Company, that though what was first demanded of them was but a Million and half certain for the Redeemables, and the like Sum for the Annuities, or *pro rata* for so many of them as should be taken in, yet they were prevailed on to make their Proposal three Million and a half certain, for the whole of the Annuities and Debts.

The Proposal of the Bank delivered in at the same time, amounted to five Millions and half, which was two Millions more than the South Sea Company's Proposal, which gave the first Fire to the Imaginations of Mankind, that there was something more advantageous in this Scheme than had been conceived. *Therefore to this extravagant Bidding of the Bank, may be attributed the subsequent Dealings in the Stock at such excessive and pernicious Prizes.*

And this Offer of the Bank spirited up the general Court of the South Sea Company, to give that Instruction to their Directors, *Not to lose the Scheme cost what it would.*

That the Bank *had once* agreed to give nine Millions for the Scheme, whereby the South Sea Directors were driven to make the large Offer in their second Proposal: And from the time of the Acceptance thereof, began those Transactions in the Stock, which occasioned all the Misfortunes that had happened: For though in Rectity the Scheme was so much the worse as the Money paid for it to the Publick exceeded what was first proposed, yet by the opposition and great offer of the Bank, Peoples Minds were so heated, and their Passions so animated with an Apprehension of inconcievable Advantages, *That from this time they seemed to throw away all Reason, and give themselves up wholly to Humour.* So that upon the Banks Competition and Opposition may be charged the principal Cause of all the Misfortunes that followed.

They proceed however to mention another Cause of the Misfortunes that happened, which they apprehended to be *the Distemper of the times*, that captivated

the reason of Mankind in general, not only in *England*, but in all the Neighbouring Countries, who leaving the usual Methods of Labour and Industry to gain Estates, were all tainted with the fond Opinion of being rich at once, which occasioned many Persons to engage much beyond their Fortunes, not only in South Sea Stock, but in every pernicious Bubble that could be raised; for this they need only appeal to every Man's own Conscience, and desire him to reflect on the Operations of his own Mind at that time, and what he did, and saw, and knew to be done by others.

How did Persons of all Ranks and Stations lay aside all manner of Distance and almost Decency, to become humble Suitors for Subscriptions, not only to the Directors of the South Sea Company, but to the meanest and vilest of the People, who had but the Assurance to set up a Bubble, even without knowing what the thing was, into which they so earnestly pressed to be admitted Subscribers. And were the Sums paid in those numberless Bubbles cast up, and the advanced Prizes they actually sold at, it would evidently shew that the Mischief and Ruin which proceeded from them, was more and greater than the Losses sustained by South Sea Stock. Before that memorable Bargain with the Bank, the Non-performance of which on the part of the Bank, ruined more Families than all the Transactions of the South Sea Directors; for after this Bargain made *in the presence of the principal Persons in the Administration*, the most cautious Men were drawn in to embark their whole Fortunes in South Sea Stock at near 400 *per Cent.* In Conclusion, they lament, that, notwithstanding the South Sea Scheme was originally formed with a Design of great Advantages to the Publick, as well as to the original Proprietors, and the Execution of it had been attended with so many Misfortunes, *nevertheless there still flow'd from it many and great Benefits to the Publick, as well as to the original Proprietors.* And yet the Directors of the South Sea Company were punished in a manner beyond any Precedent known in *England*, while the Projectors and Managers of the innumerable Bubbles set up without any legal Foundation, and with no other Intention than that of Fraud and Cheat had not been so much as called in Question.

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The Adversaries of the South Sea Scheme still continue to suggest, however, that the Confiscation of the Directors Estates by the Legislature was far from being unjust: Nay, it is affirmed that such Indulgence never was shewn to People in their Circumstances; for though it should be admitted that they were the Projectors of the sinking Fund; that they have put the Debts of the Nation in a way of being paid, and rendered those Annuities redeemable; which before were irredeemable; yet it was done by such Methods as ought never to be countenanced or encouraged. Had they not given out that they were able to make such high Dividends, the Annuities had never been drawn in to subscribe the Annuities, and others to purchase Stock at those advanced Rates. There is no Doubt but the Company had great Advantages by the publick Debts being subscribed, and by the high Price at which their Stock was purchased; but what was the Company's Gain, was the Loss of Thousands and ten Thousands; nor does the Competition of the Bank at all excuse the Rashness of the South Sea Company in bidding so vast a Sum for the Scheme as they were conscious could never be paid by any Gains the Company could fairly make. They had (it is true) improved their original Stock by taking in the Debts; the Bank saw it, and would have been glad to have ingrossed those Debts, for the very Reasons the Company were so fond of them; but one would think both the one and the other infatuated, as well as the People, to bid so many Millions as they did for the execution of the Scheme. There is no Doubt but the seeing these great Bodies bidding against each other, did contribute to the advancing the Price of Stock, and if it should be admitted that the Bank had their Share in abusing the People, and inducing them to part with their Fortunes, to purchase what had no Existence in Nature; it is not to be conceived how this Step of the Bank can excuse the South Sea Company, who led the way to all these Extravagancies. And can it be supposed that the Proprietors of the Long-Annuities could ever have been prevailed on to subscribe them, or other People to have given 3 or 400 l. for 100 l. Stock,

if they had not been assured by the Directors it was worth so much, and that they could make Dividends in Proportion to those Prices.

The Merit therefore of procuring the Annuities to be subscribed, which before were irredeemable, by giving out that their Stock was worth more than it really was (say the Adversaries of this Scheme) was no more than the Merit of a Sharper; had not the Annuitants been deceived in the Value they would never have subscribed, and though the bringing them in might lessen the National Debts, and be a very great Advantage to the Company, yet as it was accomplished by deceitful Arts has very little Merit in it. The Government may be Gainers by the Scheme, as well as the Proprietors of the original Stock; but if this Gain has arisen from the Losses innocent People have sustained, who confided in the Veracity and Probity of the Directors, who depended upon it that the Stock was of the Value they set upon it. What excuse can they make for their Conduct? It is not to say, that there has only been a Revolution of Mens private Estates and Fortunes, and what one has lost another has gained; but the Question is, by what means the Losers were induced to part with their Fortunes and beggar their Families? Whether the Annuitants were not deceived in the Value of Stock when they subscribed, by the Directors setting too high a Price upon it, and assuring them they could divide 20, 30, and at last 50 l. per Cent? What Satisfaction is it to a Man that he was tricked into a disadvantageous Contract, and not forced into it? Or how is publick Credit supported better the one way than the other?

Had the Government come with an armed Force and compelled the Annuitants to accept of a less Sum than their Annuities were really worth, or shortened the time for the Payment of them; this would have been justly looked upon as a Breach of the publick Faith. And if by Stratagem, and in Prospect of imaginary Advantages, a way is found out to overreach these Annuitants and induce them to part with their Annuities, or consent to a Redemption of them, for what is not a valuable Consideration, can any Government in Honour approve of such Practices, and not shew some Resentment against the Projectors of such Schemes.

I shall

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Such Reflections as these we hear Daily made (by the Adversaries of the South Sea Scheme) and it seems incumbent on the Authors of it, to give a more satisfactory Answer to them than they have hitherto done.

I shall conclude these Remarks with a Paragraph out of *Cato's Letters*, viz.

'I would gladly know what Advantage ever hath, or ever can, accrue to the Publick by raising Stock to an imaginary Value, beyond what they are really worth to an honest Man, who purchases them for a regular Support to himself and Family, and designs not to sell them again, till he hath Occasion for the Money they will produce. It can most assuredly serve no honest purpose, and will promote a thousand knavish ones. Besides those before-mentioned it turns most of the current Coin of *England* out of the Channels of Trade, and the Heads of all its Merchants and Traders off their proper Business. It enriches the worst Man and ruins the innocent. It taints Mens Morals, and defaces all the principles of Virtue and fair Dealing, and introduces Combination and Fraud in all sorts of Traffick. It hath changed honest Commerce into Bubbling; our Traders into Projectors; Industry into Trickery; and Applause is earned, when the Pillory is deserved. It hath created all the Disatisfaction so much complained of, and all the Mischiefs attending it, which Daily threaten us, and which give Reasons of standing or occasional Troops. It hath caused all the Confusion in our publick Finances. It hath set up monstrous Members and Societies in the Body politick, which are grown, I had almost said, too big for the whole Kingdom. It hath multiplied Offices and Dependances in the power of the Court, which in time may fill the Legislature and alter the Balance of Government. It hath overwhelmed the Nation with Debts and Burthens, under which it is almost ready to sink; and it hath hindered those Debts from being paid off; for if Stocks sell for more upon the Exchange than the Prices at which they are redeemable, or more can be got by jobbing than by discharging them, then all Arts will be used to prevent a Redemption.'

The Directors Reply to the Charge.

By way of Reply to this Charge, the

Compiler of these Proceedings received the following Letter, without any Name subscribed, which seems to have been written by one of the late Directors, viz.

To the Author of the Modern History.

SIR,

'As you have deservedly the Name of an impartial Writer, I flatter my self that you will not look upon him as an Enemy who helps you to maintain that Character by his Endeavours to set you right in such things, as through Misinformation you relate, not altogether conformable to the Truth of the Facts.

'In N^o 90 and 91 of your agreeable, and instructive History; in the Article where you treat of the Trade and Establishment of the South Sea Company, you have intermixed an Account of the Execution of the South Sea Scheme; where, in some Respects you do Justice to those unfortunate Gentlemen, who were in the Direction of that Company in the Year 1720. But in others, you are in your Censures too incautious.

'You do them Justice in relation to the great Advantages they procured to their old Proprietors, and to the Publick. But you say that other matters are alledged by those who are prejudiced against them, of which they have not cleared themselves; and seem to intimate, that therefore they deserve the Reflections which are Daily cast upon them.

'Had these unhappy Gentlemen been suffered to speak in their own Defence, there is no Doubt but they would have made their Innocence manifest; and perhaps this is the reason, why such leave was not given them; for no other was ever assigned. But they must submit to superiour Authority, and their hard Fate.

'However, as I am acquainted with most of these Gentlemen, who always maintained before the Scheme, and since the Scheme, the Character of fair and honest Men; I shall venture to vindicate their Reputation, in giving you my Sentiments of what you have been pleased to say concerning some of their Transactions.

'You

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' You have rightly observed the three following Particulars, which (when Prejudices are out of Date) will be remembered to the Honour of that Court of Directors, who executed them.

' I. That they got for all those who were concerned in the Company, 55 *l.* 16 *s.* 8 *d.* of Stock clear upon every 100 *l.* which for the old Proprietors amounts to above six Millions of Stock.

' II. That by taking in the Irredeemables, and making them Redeemable (a Work attempted before in vain, tho' wished by every Body) they saved the Nation the paying of 535769 *l.* 15 *s.* 10 *d.* a Year, for thirty four Years, which saving amounts in the whole to upwards of eighteen Millions.

' III. That by the taking in the Redeemables, and reducing the Interest from 5 to 4 *per Cent.* (as they had reduced it before in the Year 1717, from 6 to 5 *per Cent.*) they established a sinking Fund, which will pay off the National Debts, incurred before the Year 1716, in less than twenty eight Years.

' These one would think were Services which ought to compensate for some Errors of Judgment, if in so difficult and extensive an Undertaking, they had committed any.

' But as they executed the Act of Parliament with great Exactness and Success, the Prejudices invented against them, as if they had induced by Promises of large Dividends, the Owners of the publick Funds to subscribe them, will presently be dispelled; if it is remembered that the Subscription of the Irredeemables was taken five Months, and the Subscription of Redeemables two Months, before there was any Discourse or Thought of a large Dividend for a Number of Years. And if the unhappy Directors durst presume to write in their own Justification it would soon appear, that the Dividend of 50 *per Cent.* voted by the general Court, was so far from being projected or promoted by the Court of Directors that there was not one amongst them, but was strenuously against it, and for keeping to the usual Method of considering half Yearly in general Court, what was proper to divide. But according to the old Observation, that general Courts are always for large Dividends, and Courts of Directors against them; the Bent and Pressure of the Proprietors for a large Dividend for a Number of Years,

was not to be withstood at this time.

' Which made the Gentlemen of the Committee of Secrecy, often say in the House of Commons, that the general Court of the South Sea Company, was more to blame than the Court of Directors; and therefore it were more reasonable to make them refund their Gains, or release the Annuitants, than to give the Directors Estates to a Company, which got so much by their Management.

' And as the Eagerness of the Owners of the publick Debts to subscribe them is not forgot, it sounds very odd to him; that they had any other Inducement for what they did, than their own strong Inclination. For after the Price which the Subscribers of the redeemable Annuities were to have, was fixed, and published in the Gazettee; many who were left out, especially such as lived in remote Parts, whose Orders did not come time enough before the Books were shut; solicited so earnestly by their Friends to be admitted, that they could not be refused.

' And now, Sir, I appeal to you as to an impartial Judge when rightly informed; supposing that the Court of Directors had encouraged the Subscriptions of the publick Debts, had they done wrong and acted against their Duty? since it was of such Importance to the Publick; and that the Act of Parliament required they should take in the publick Debts; or by failure thereof the Company was to forfeit above four Millions? And did the Directors for this part of their Transaction deserve to have their Estates taken from them?

' However, when the Price of the Stock fell, although the Court of Directors was no way the Cause of the Loss likely to be sustained by the Subscribers of the Redeemables; yet compassionating their Case, the Directors unanimously resolved to release them, and had actually done it; if the leading Men of the Bank, who some Days before had concluded a Bargain with the general Court of the South Sea Company for one Million of their Stock at 400 *per Cent.* hearing of this Resolution to release the Annuitants, had not put a stop to it, by applying to the Ministers and other great Men, to use their Authority with the South Sea Company, not to release the Annuitants, but let them stand upon the same Parliament

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'Foot with themselves. Who afterwards broke their own Bargain, and when the Annuityants applied for Relief to the Parliament, gave their Votes against them.

'Is not what is said above a Demonstration, that the Directors of the South Sea Company in the Year 1720, had at Heart the good of the publick, and at the same time a human Disposition, not to let any Body suffer by what they were under an Obligation to transact?

'Some who have endeavoured to form a Judgment of the Loss to particular People, that attended the Subscription of the publick Funds, have made the following Remarks.

'The Subscribers of the 99 Years irredeemable Annuities, having been allowed 32 and 36 Years Purchase, and received a great Proportion in Money and Bonds, were no Losers but rather Gainers by their Subscriptions.

'The Subscribers of the Redeemables were those who chiefly suffered by the Scheme. But then it must be considered that they were not all Sufferers, for those who Subscribed no more in Annuities than they had South Sea Stock, got in one Capacity what they lost in the other. And that there were many such, is not improbable since the South Sea Stock before the Scheme, amounting to near twelve Millions, was almost equal to the subscribed redeemable Annuities. And as most People who are concerned in the Funds, choose rather not to have it all in one Place, there is no Doubt but that many of the Subscribers of the redeemable Annuities, were also possessed of South Sea Stock.

'All the Directors of the South Sea Company, without exception, subscribed all they had of the publick Securities, and several of them bought Annuities to subscribe them. One of them subscribed 82000 *l.* of the Redeemables; another, who was a Director before, upwards of 90000 *l.*

'The Bank in their corporate Capacity subscribed 300000 *l.* one of their Directors 70000 *l.* another 40000 *l.* and several other of the Bank Directors considerable Sums.

'Foreigners who are supposed to have one sixth part of the National Debt belonging to them, and were particularly fond of the redeemable Annuities, be-

'cause not so liable to rise and fall, being more infatuated, if possible, than ourselves, ordered all they had to be subscribed with a Passion that can hardly be conceived.

'But for all this there were too many of the Subscribers of the Redeemables, who were actually losers. But as they received in Money, part of what the Company allowed them, as they had the Benefit of the Additions of 55 *l.* 16 *s.* 8 *d.* of Stock, and as they enjoyed for several Years extraordinary Dividends upon 155 *l.* 16 *s.* 8 *d.* and as one half of this whole Stock was converted into 4 *per Cent.* Annuities, which bear an Advance above par. It is computed that the Loss even of those who had no South Sea Stock at all, does not exceed one third of the Capital.

'Having done with what relates to the Subscriptions of the publick Funds, I come next to what you mention of the Prejudices still entertained about the Sale of the fictitious Stock; as if great Sums of Money had been issued out by Order of the Court of Directors, to pay the Difference to the Buyers of that Stock, of which you apprehend they have not sufficiently justified themselves. Would it not be a proper Answer to say, that the Court of Directors having never been regularly accused, and this in particular, of the Sale of the fictitious Stock, having not been laid to their Charge, they had no Opportunity of making the Malice and Falsity of these Aspersions appear? But to give you all the Information I can about this matter, the Case seems to me to have been this.

'Some in the Administration, of whom the Chancellor of the Exchequer was not suspected to be one, as you may imagine, gave Orders to Mr Knight, to sell Stock to facilitate the passing of the Bill.

'Mr Knight executed these Orders without consulting the Court of Directors, and without their Knowledge; and the Court of Directors had no Power to dispose of any of the Company's Stock, but by leave of the general Court. The Court of Directors did not hear of the Sale of the Stock, till near the time of the Enquiry made by the Parliament. When Mr Knight acquainted them with it * (after he had kept it concealed from them as long as

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* Mr Knight said before his going away, that he could easily justify all he had done except one thing, which was the Sale of the fictitious Stock, but that he could not.

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‘ he could) they were astonished, and
‘ thought themselves imposed upon in so
‘ uncommon a manner, that they were
‘ resolved to complain of this Insult and
‘ and Violation of their Rights, if they had
‘ been left in a Capacity to do it. In all
‘ their Enquiry about this matter, they
‘ did not find that Mr *Knight* had paid
‘ for any Difference to those who had
‘ bought Stock of him. It is certain he
‘ did it not out of the Company’s Money.
‘ For, if I am rightly informed, it ap-
‘ pears by the Company’s Cash-Book,
‘ that Mr *Knight* sold 574500 *l.* Stock
‘ at the Market Price, and at different
‘ times between the 2d of *February*, and
‘ the 12th of *April*, from 150 to 325
‘ *per Cent.* the whole amounting to
‘ 1,213,575 *l.* for which Mr *Knight*,
‘ (being always true to the Cash, what-
‘ ever his other Failings might be) made
‘ himself Debtor, without entering the
‘ Names of any of the Buyers. So that
‘ the Company got 639075 *l.* by this
‘ amazing Boldness of their Cashier, not
‘ to say of the Ministers. And if ever
‘ an Account of this whole Proceedings

‘ be made publick, these unjust Sug-
‘ gestions against a Number of innocent
‘ honest Men, will appear odious to all
‘ unbiast People.

‘ In the mean time that their Names
‘ may not go down blemished to Poster-
‘ ty, in a History which extends to all
‘ the Nations of the Earth, I hope you
‘ will take an Opportunity to retract or
‘ amend what you may have writ
‘ through Misinformation, to the Preju-
‘ dice these injured Gentlemen’s Reputa-
‘ tion.’

I am, &c.

Here we see what the late Directors
have to offer in Vindication of their Con-
duct, whether it be Satisfactory or not,
every Man will judge for himself; how-
ever, I have taken this Opportunity to
publish these Remarks of theirs with the
Proceedings against them, that they may
have no Colour for the future to insin-
uate, I have not done them Justice. It is
to be presumed, that after so many Years
Deliberation, they have recollected every
Circumstance that may be of Service to
their Cause.

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